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# TMENT OF JUSTICE
# GAMBLING CONTROL DIVISION
# BIENNIAL REPORT

## Fiscal Years 1995 and 1996

AND

## REPORT OF THE

## 1995 - 1996

## GAMING ADVISORY COUNCIL

*January 1997*

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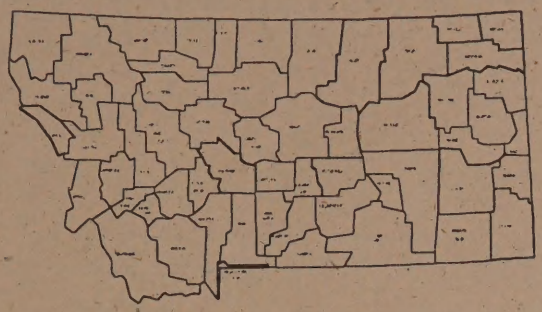
# Public Policy of Montana Concerning Gambling



**MCA-23-5-110. Public policy of state concerning gambling.**

(1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gambling industry in this state is fair and is not influenced by corrupt persons, organizations, or practices;

(b) protect legal public gambling activities from unscrupulous players and vendors and detrimental influences;

(c) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;

(d) protect the state and local governments from those who would conduct illegal gambling activities that deprive those governments of their tax revenues;

(e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gambling activities; and

(f) promote programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families.

(2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 8 of this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 8 of this chapter is a privilege revocable only for good cause. A holder does not acquire a vested right in the license or permit issued or other department approval granted. A license or permit issued under parts 1 through 8 of this chapter may not be sold, assigned, leased, or transferred.

(3) Revenue to fund the expense of administration and control of gambling as regulated by parts 1 through 8 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities, except the gambling activities of the Montana state lottery and the parimutuel industry.

**23-5-111. Construction and application.**

23-5-111. Construction and application. In view of Article III, section 9, of the Montana constitution, parts 1 through 8 of this chapter must be strictly construed by the department and the courts to allow only those types of gambling and gambling activity that are specifically and clearly allowed by those parts.

# MONTANA DEPARTMENT OF JUSTICE
# GAMBLING CONTROL DIVISION

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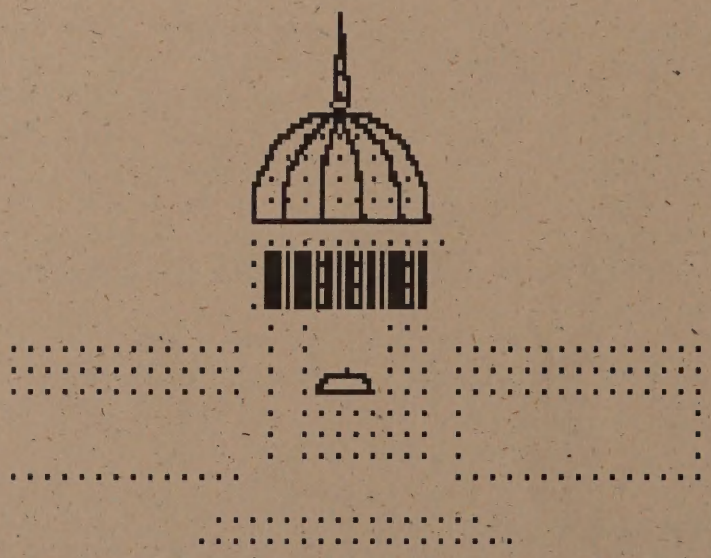

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# I. INTRODUCTION

## A. Creation of Division

Prior to 1989, responsibility for regulating most forms of gambling in Montana rested with local governments. This decentralized system resulted in a diverse range of control over gambling activities in the state. Some cities and counties vigorously controlled gaming within their boundaries while other jurisdictions took a more relaxed stance. A consistent approach to gambling regulation was nonexistent.

Recognizing that a uniform regulatory climate would serve the best interest of the gaming industry, general public, and local governments, the 1989 Legislature enacted Senate Bill No. 431[1], a bill centralizing gambling regulation under the Department of Justice. Statutory duties assigned to the Department included adopting administrative rules, licensing gambling providers and activities, collecting and distributing gambling taxes, testing and approving video gambling machines, and enforcing the gambling laws. The Attorney General, as head of the Department, created the Gambling Control Division to assume these duties.

## B. Types of Gambling Under Division Jurisdiction

The Gambling Control Division's jurisdiction extends to all forms of gambling except the Montana Lottery and horse racing.[2] The following sections describe the games regulated by the Division:

Video gambling machines. A video gambling machine is an electronic gambling device that, upon insertion of cash, is available to play poker, keno, or bingo. The machine uses a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash.

Live card games. Montana law authorizes ten card games: bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist. These are nonbanking card games in which players bet against and settle with each other rather than betting against and settling with the house.

Live bingo. Live bingo is played on a card bearing a printed design of five columns of five squares each, 25 squares in all. The letters B-I-N-G-O must appear above

---

[1] Chapter 642, Laws of 1989.

[2] The Montana Lottery and horse racing are under the jurisdiction of the Montana Lottery Commission and the Board of Horse Racing, respectively.

the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.

Live keno. Live keno is played with a card containing eight horizontal rows and ten columns on which a player may pick up to ten numbers. A keno caller, using authorized equipment, selects at random at least 20 numbers out of the numbers between one and 80, inclusive. A player may win prizes by matching the numbers selected in whole or in part.

Sports pools. In a sports pool, a participant wagers money for a chance to win cash or other prizes based on the outcome of a sports event or series of sports events wherein the competitors in the event or series are natural persons or animals. Several variations of sports pools are legal including the traditional sports pool, series sports pool, multiple way sports pool, selected point sports pool, blackout sports pool, weekly sweepstakes sports pool, and multiple competitor sports pool.

Sports tab games. A sports tab game is conducted on a card to which 100 sports tabs[3] are attached that have 100 different pairs of numbers. A person may purchase a sports tab from the card for the chance to win cash or other prizes based on the outcome of a sports event. A winner or winners are determined by matching the appropriate numbers on a participant's sports tab with the only or last digit of the competitors' score at the end of the sports event, and if designated before the event by the game's sponsor, at intervals during the sports event.

Raffles. A raffle is a gambling activity in which a participant purchases a ticket for a chance to win a prize through a random selection process.

Calcutta pools. A Calcutta pool is a form of auction pool conducted in conjunction with an event involving more than two competitors. Participants in the pool bid on the event's competitors, and a participant's wager is equal to his or her bid. The highest bid "purchases" the competitor, and pool proceeds are divided among participants according to a competitor's performance in the event.

Casino nights. A casino night is a fundraising event conducted by a nonprofit organization during which wagers are made in certain gambling activities using imitation money. Only live card games that are legal in the state, live bingo, live keno, and raffles may be conducted during a casino night.

---

[3] A sports tab is a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

**Fantasy sports leagues**. A fantasy sports league consists of a limited number of persons or groups who pay an entrance fee for membership in the league. Each league member creates a fictitious team composed of athletes from a given professional sport. Each team then competes against the other teams in the league. Points are awarded to a team according to the performance of individual players or teams or both during a designated time period. A member may be eligible to receive a payout, which may be in cash or merchandise, based on the number of points accumulated.

**Shake-a-day**. Shake-a-day is a gambling activity in which a customer may once each day wager an amount of money, not to exceed 50 cents, and shake a number of dice in an attempt to roll a certain combination simulating a poker hand predetermined by the establishment. If the combination is rolled, the customer wins all money paid to play the game since the last winning combination was rolled.

**Shaking for drinks or music**. Shaking for a drink or music is a gambling activity in which a customer shakes or chooses one or more dice, alone or with an owner or employee of an establishment, to determine whether the customer or establishment will pay for the customer's drink or pay a predetermined amount of money for music from a jukebox.

**Fishing derbies**. In a fishing derby, two or more persons pay valuable consideration for an opportunity to win a prize for the species, size, weight, or otherwise specified fish caught in a fishing event.

**Wagering on natural occurrences**. Wagering on a natural occurrence is a gambling activity in which a person pays valuable consideration for an opportunity to win a prize by most accurately predicting the date or time of an event resulting from a climatological or meteorological activity.

### C. Wager and Payout Limits

In some cases, the gambling laws impose specific wager and/or and payout limits on gaming activities. The following table lists the limits imposed on the games. Poker machine payouts were increased to $800, effective 10/1/95.

**TABLE 1.1**
**Wager and Payout Limits**

| | WAGER | PAYOUT |
|---|---|---|
| Video Gambling Machines | | |
| | $2 | $100/$800 Poker[1] |
| | | $800/Keno/Bingo |
| Live Card Games | | |
| | None | $300 |
| Live Bingo/Keno | | |
| | $.50 | $100 |
| Raffles | | |
| | None | $5000 (Except Nonprofit) |
| Sports Pools/Tabs | | |
| | $5 | $500 |
| Calcutta Pools | | |
| | None | None |
| Shake-A-Day | | |
| | $.50 | None |
| Shaking for Drink | | |
| | None | None |
| Shaking for Music | | |
| | None | $2 |
| Fishing Derbies and Natural Occurrences | | |
| | None | None |
| Casino Nights | | |
| | None | None |
| Fantasy Sports Leagues | | |
| | None | None |

[1]Poker machine payouts $100 through 9/30/95. As of 10/1/95 poker machine payouts are $800.

Statistics on the amounts wagered on selected gambling activities in this state are contained in Table 1.2.

**TABLE 1.2**
**Amount Wagered on Selected Gambling Activities**
**Fiscal Years 1994 Through 1996**
**(In Millions)**

| | 1994 | 1995 | 1996 |
|---|---|---|---|
| Live horse racing[1] | $ 4.8 | $ 4.3 | $ 3.7 |
| Simulcast racing | 4.2[2] | 5.5[3] | 6.0[4] |
| Commercial live keno | 5.5 | 5.6 | 4.5 |
| Commercial live bingo | 8.5 | 7.9 | 7.3 |
| Lottery | 37.5 | 32.8 | 31.8 |
| Video gambling machines | 488.5 | 509.7 | 523.4 |
| Totals | $549.0 | $565.8 | $576.7 |

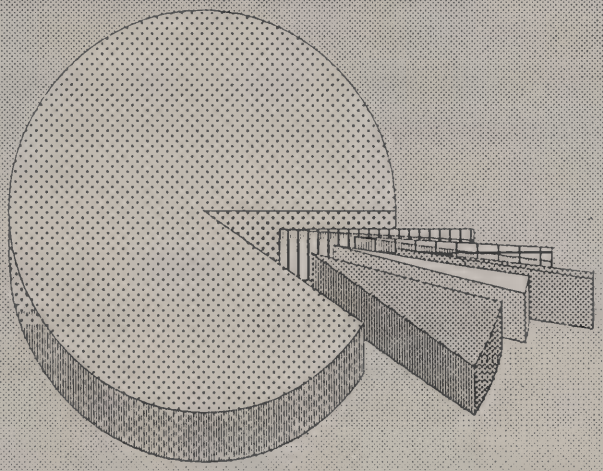
[1] Live season covers May through September of each year.
[2] Covers winter season (October through May 1994) .
[3] Covers winter season (October through May 1995 ).
[4] Covers winter season (October through May 1996).

As noted above, in fiscal year 1994 Montanans and visitors to the state wagered $549.0 million on live and simulcast horse racing, commercial live bingo and keno, lottery, and video gambling machines.[4] This figure grew to $576.7 million in fiscal year 1996, a 5 percent increase. Only video gambling machines experienced a significant increase in the total wagered during this three-year period. The annual amount wagered per Montana resident age 18 or older on these six gambling activities was approximately $909 in fiscal year 1996, with approximately $595 spent by every man, woman and child on video gambling machines. As the graph on the following page illustrates, video gambling machines accounted for nearly 91 percent of the wagering on these gambling activities in fiscal year 1996, while live horse racing accounted for less than one percent.

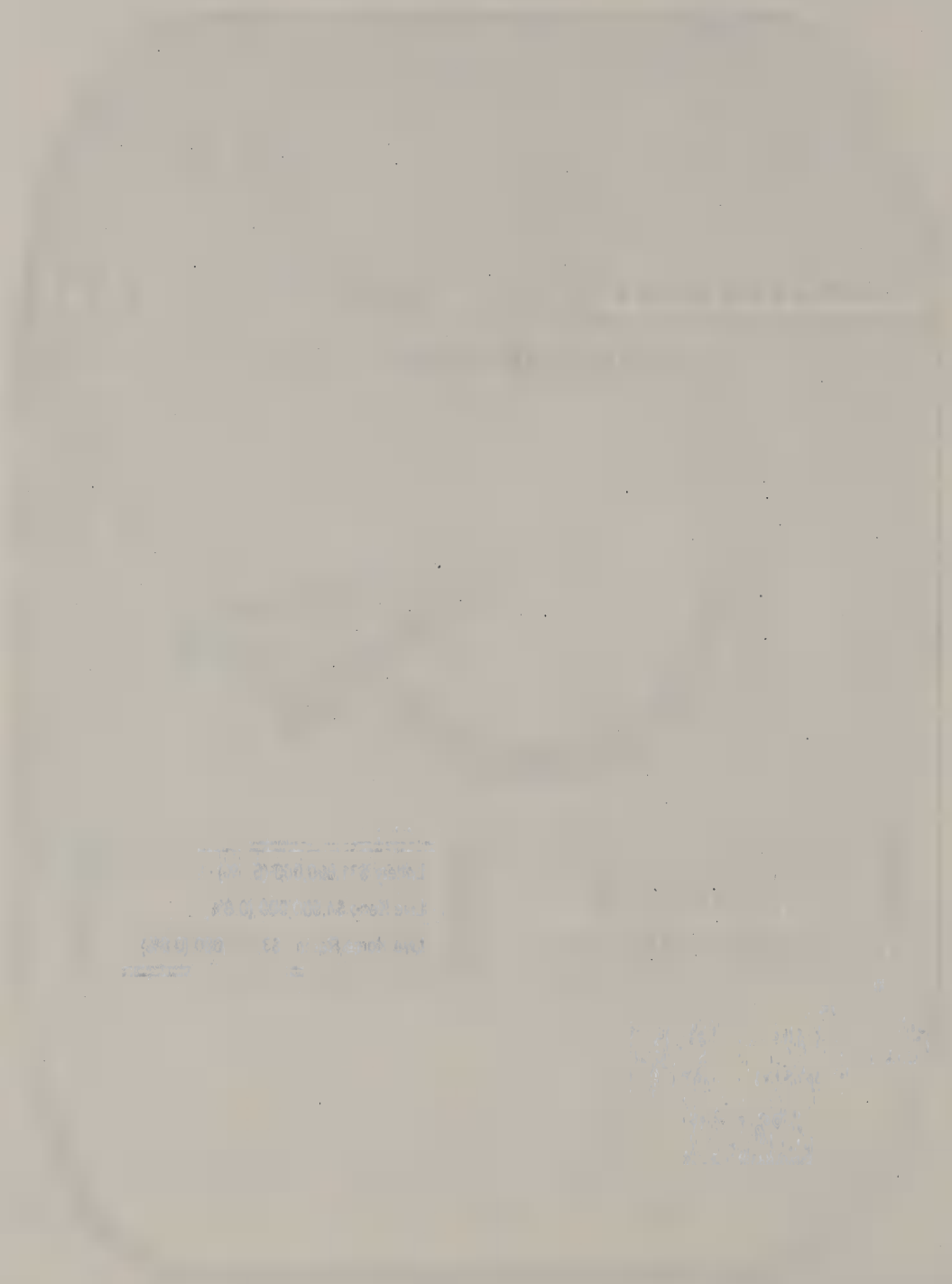
[4] The amount wagered on video gambling machines is an estimate based on a sample of video gambling machine tax returns.

## MONTANA DEPARTMENT OF JUSTICE - GAMBLING CONTROL DIVISION

### Amounts Reported Wagered FY 1996



- Video Gambling $521,000,000 (90.7%)
- Lottery $31,800,000 (5.5%)
- Live Bingo $7,300,000 (1.3%)
- Live Keno $4,500,000 (0.8%)
- Simulcast Racing $6,000,000 (1.0%)
- Live Horse Racing $3,700,000 (0.6%)



## II. 1995 Legislative Changes

The following legislative initiatives received approval by the 1995 Legislature:

HB173: Exchange of Information: This bill was signed by the Governor and became effective on March 13, 1995. It allows the Department of Justice to provide regulatory information to gambling agencies of jurisdictions outside Montana. This bill was requested by the Department.

HB208: Public Information: This bill, which became law on March 21, 1995, implemented the public's constitutional right to information relating to civil and criminal sanctions imposed for gambling law violations.

HB527: Increasing the Poker Machine Payout: This bill, which has been signed by the Governor and becomes effective in October, increases the payout on poker machines from $100 to $800.

HB559: Pinochle Tournaments: HB559, effective in October 1995, allows pinochle tournaments conducted by non-profit organizations. The law is similar to current statutes on casino nights.

HB537: Prohibition of Co-location of Commonly-Owned Casinos: HB537, requested by the Montana Tavern Association, received final approval after being amended in both the House and the Senate. The bill is intended to prohibit establishments under common ownership from being located within 150 feet of each other.

The following bills were tabled or received adverse reports in committee action:

SB260: Establishment of a Gaming Trust Fund for Treatment of Pathological Gambling Addiction: This bill would have set up a trust fund from current gambling revenues (including the lottery and horse racing) to be used to deliver services to treat pathological gambling addictions. Service delivery would be coordinated by

the Department of Corrections.

HB525: Elimination of sports tab tax and decrease in amount paid out to players.

HB583: Increase gambling taxes to fund property tax reductions (state school levy).

The following bill did not pass both houses with sufficient votes to assure passage:

SB109: Ballot issue to authorize establishment of the legal age for gambling.

SB187: Authorization for automation of machine reporting and accounting. This bill, submitted by the request of the Attorney General and the Governor, would have provided for automated accounting and reporting of machine income and play; it included a study phase, tax credits of up to $600 per machine for conversion, and grandfathering of older machines that could not be converted. The bill passed the Senate but failed in the House by five votes.

## IIa. Legislative Audit

After the 1991 Legislative Session, the Legislative Auditor was instructed to conduct a performance audit of the Gambling Control Division. The audit was conducted in 1992 and published in January 1994 in a Performance Audit Report entitled, *Regulation and Monitoring of Video Gambling Machines.* The Auditor's findings and recommendations are summarized below:

I. The Division needs to inspect machines more frequently and needs to include EPROM testing in all inspections. The Division currently is able to inspect each machine once every seven years at current staffing levels.

II. The current tax reporting system does not work as intended; 28.7 to 38.4 percent of gambling establishments pay an incorrect amount of tax on video gambling machine proceeds and an additional 18 to 22 percent of other establishments could be paying an improper amount. Given the current staffing levels, it will take the Division 65 years to complete a field audit of all establishments. The following concerns were identified in the audit:

1. Returns are not always properly completed and mathematical errors exist;

2. Documentation of gambling machine income is often missing and inadequate;

3. All machine play is unaccounted for;

4. Mechanical and electronic meters repeatedly do not balance;

5. Frequent machine service is apparent; and,

6. Often the correct tax is not paid by gambling establishments.

**AUDIT RECOMMENDATION** - One type of automated system capable of monitoring video gambling activities and revenues is a dial-up system. This system requires a central computer to "dial-out" to gambling machines on a scheduled basis (every 24 hours) in order to obtain pay and revenue statistics. This would also improve the integrity of video gambling by ensuring that both the public and the gambling industry are protected and by enhancing the accountability of public funds. The audit recommended that the Department of Justice present a plan to the 1995 Legislature to implement a dial-up system. **(Diagram of dial-up system on page 15.)**

**AUDIT ALTERNATIVE (ADDITIONAL STAFF)** - The Auditor noted that if the Department did not propose a dial-up accounting and reporting system, it would be necessary to add 23 FTE staff positions in order to achieve a similar level of accuracy, fairness and integrity to the state's collection and oversight of gambling revenue.

The Department proceeded with a review of existing technology and systems that would provide for automated accounting and reporting of gambling information to ensure that the correct amount of taxes are paid and also that machine play was fair and legal. This review included site visits by Division staff to Saskatchewan and South Dakota, two jurisdictions that currently own and operate *dial-up systems,* and a Request for Information from gambling, computer and related manufacturers of existing automated systems.

The Attorney General, in conjunction with the Governor requested a bill be submitted to the 1995 Legislature authorizing the implementation of an automated system. The bill, which was sponsored by the President of the Senate, passed the Senate but failed in the House of Representatives by a vote of 52 to 47.
In addition, the Division undertook a review of the Montana gambling industry to ensure that whatever system might be adopted would fit the existing Montana industry and also meet the Divisions' needs.

Following the 1995 Legislature the Attorney General instructed the Gambling Control Division to continue researching electronic automation and to be prepared to make a recommendation before the 1997 Legislative session. In addition, the Gaming Advisory Council invited manufacturers of automated accounting and reporting systems to make presentations to the Council in January 1996. Four different companies submitted presentations, Video Lottery Consultants (VLC), International Game Technology (IGT), METRETEK, and Gtech. The four demonstrated their hardware and software technologies for a central system.

The Gambling Control Division evaluated the four presentations and found that three companies systems met the minimum established requirements for security, efficiency and reliability. One company's (METRETEK) system did not meet the minimum established criteria.

## MINIMUM CRITERIA FOR AUTOMATED ACCOUNTING AND REPORTING:

The Gambling Control Division has identified the following criteria that must be met by any automated accounting and reporting system to effectively and efficiently address the problems specified in the 1994 Legislative Auditor's report:

1). Ensure minimum accounting/reporting of tax information to properly control and regulate video gambling.

A. Timely(every 24 hours), routine and service polling of VGMs to gather data, including cash in, cash played, cash won, cash out, logic and cash access time and date.

B. Report creation for Gambling Control Division and establishments.

i) Daily exception reports to identify machines/locations that did not communicate and to list problems, including EPROM signature.

ii) Automatic generation of electronic billing.

2). Ensure gambling is fair.

A. Remote verification of EPROMs. The EPROM verification process must assess the data at each address location within an EPROM. Simple verification of the game name and version, as presented on printed tickets, does not verify all other data contained on EPROMs.

3). Minimize regulatory costs and reduce paperwork for operators and state.

A. Automation of electronic permitting and service reports

B. Minimize start-up and operating costs including equipment, maintenance, personnel and travel for both state and location.

4). Provide for technological needs.

A. Security and integrity of data provided by a direct data-path and use of encryption from the VGM main computer processor to the central computer site.

B. Redundancy required to avoid downtime, loss of data and guarantee that the system will always be available.

C. System must not cause interference or interrupt VGM play during polling.

D. System must treat all VGM manufacturers' machines equally.

(8/23/96 revised)

In the fall of 1996 the Attorney General began a series of informal meetings with representatives of the Gaming Industry Association, Montana Tavernowners Association, Coin Machine Operators Association, Montana Independent Machine Operators Association, Hotel Employees and Restaurant Employees Union, Don't Gamble with the Future and members of the public. The Attorney General was seeking to find common ground for all the interested parties in designing and

implementing an Automated Accounting and Reporting System (AARS). Meetings were held from September to December in an attempt to find a system that would resolve the questions raised and the inadequacies found by the Legislative Audit and ensure the citizens of Montana that the correct amount of gambling tax would be paid by all operators and that gambling was fair. The discussions produced no final agreement but all representatives involved felt that the process had been open and fair and that a much greater understanding of the issues involved had been gained.

Since no final agreement was reached the Attorney General submitted a proposed bill to the 1997 Legislature which included many of the ideas and suggestions made by various representatives.

**Automated Accounting and Reporting System -- Proposed Bill Draft Highlights:**

- Central Computer that "talks" via phone lines to video gambling machine (vgm, and polls vgms every 24 hours to read electronic meters.

- Requires all new vgms to be connected to central system and retrofit kits for existing vgms.

- Eliminates quarterly report forms and other paperwork.

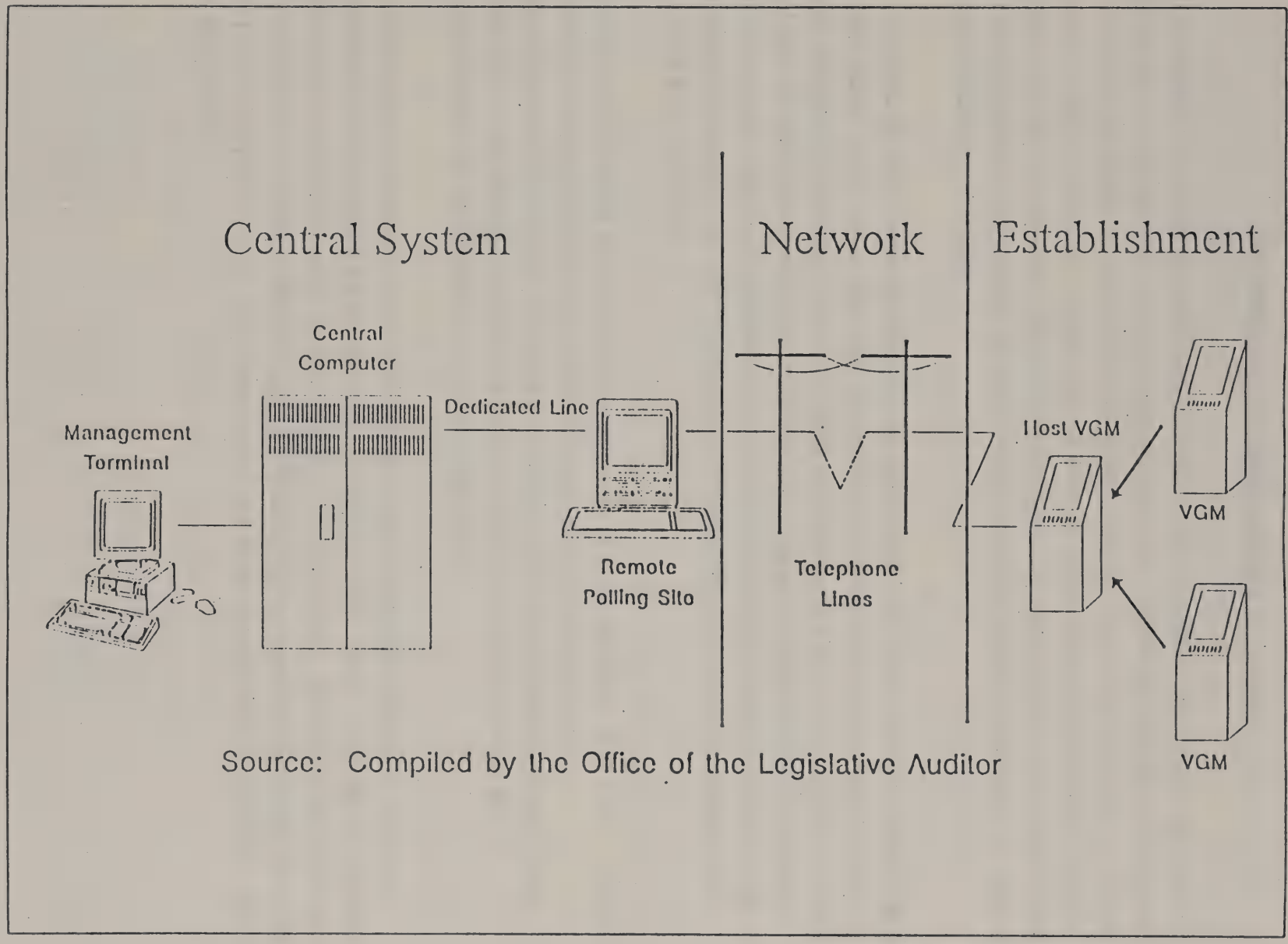
- Allows electronic permitting of vgms.

- Exempts owners of five vgms or less.

- Exempts owners of vgms that cannot be upgraded.

- Provides a loan program and tax credits to assist vgm owners to upgrade.

Senator Lorents Grosfield agreed to sponsor the bill and it became SB 96.




Source: Compiled by the Office of the Legislative Auditor

## IIb. Montana Gambling Industry Overview

The picture of Montana's gambling industry that emerges from recent statistics is no longer one of a small "mom and pop" industry. Today, gambling in Montana is dominated by large casinos with high gross income producing operations. These casinos are 20-machine establishments whose Video Gambling Machines (VGMs) have an annual individual machine average gross income of $17,331, and a small but significant and profitable group of route operators who dominate the ownership and distribution of VGMs.

Compared to two years ago two trends have appeared; first, there are significantly more VGMs in the state and thus the average gross income per machine has decreased and secondly, there are more establishments (110 in FY 96 vs. 104 in FY 94) whose gross income from VGMs puts them into the $500,000 or higher gross income per establishment bracket. So, even though the gross income per machine appears to be less, the number of establishments with a higher gross income has increased.

A number of smaller establishments with one to five machines, still exist. These machines show a significant average annual gross machine income of approximately $6,000 per year per machine. Even small establishments, those with only three VGMs, realize an average gross machine income for the establishment of approximately $18,000 per year.

The gambling industry is a significant part of the Montana economy. Players wagered approximately $521.0 million on VGMs in FY 1996. Total gross machine income (after payouts) was approximately $213.5 million. Reported tax revenue in FY96 was $32.2 million, split equally in thirds between the state general fund, city and county governments. By comparison, the state lottery generated $31.8 million in total sales.

This part of the report utilizes data on the number of locations, gross machine income, types of establishments that all were run on the same day (January 10, 1997) in order to be internally consistent. As of January 10, 1997, the following number and type of gambling establishments were in operation:

| | |
|---|---|
| On-Premise Liquor | 1,511 |
| Convenience Stores (grandfathered locations) | 46 |
| Fraternals, non-profits | 59 |
| TOTAL GAMBLING ESTABLISHMENTS | 1,616 |

By far, most gambling locations (1,511) are located in for-profit gambling establishments that also have on-premise liquor licenses. These establishments are allowed to make available for public play up to 20 video gambling machines (either poker, bingo or keno machines in any combination up to 20).

As of January 10, 1997, 295 of the 1,616 establishments contained 20 video gambling machines, the maximum allowable for public play. There are the following number of different sized establishments by number of VGMs:

| Number of VGMs | Number of estab. |
|---|---|
| 1-4 machines | 383 |
| 5-9 machines | 560 |
| sub-total(less than 10) | 943 |
| | |
| 10-14 machines | 242 |
| 15-19 machines | 136 |
| 20 machines | 295 |
| sub-total(10 to 20) | 673 |
| | |
| TOTAL ESTABLISHMENTS | 1,616 |

As of January 10, 1997, 15,787 machines were licensed for play in Montana -- compared to just 8,462 machines licensed in 1988, when the state first began licensing both video poker and keno machines.

Route operators own nearly two-thirds of these 15,787 machines, while the remaining third is owned by the establishment in which they are located. In addition, the eight largest route operators in the state own 4,647 machines. This amounts to nearly one-half of all machines owned by route operators and one-third of all machines licensed for play in Montana.

| | |
|---|---|
| VGMs OWNED BY RT. OP. | 10,514 |
| VGMs OWNED BY ESTAB. | 5,249 |
| TOTAL NUMBER OF VGMs | 15,787 |

VGM Producing Revenue

The average gross income per video gambling machine, for establishments (818 establishments out of 1,616) that operated all their machines a full four quarters of FY 1996 was:

| Machines | # of Estab. | Total VGMs | AVG. Income/machine/yr |
|---|---|---|---|
| 1 - 4 | 317 | 847 | $5,674.13 |
| 5 - 9 | 290 | 1,859 | $6,549.91 |
| 10 - 15 | 94 | 1,057 | $7,490.10 |
| 15 - 20 | 117 | 2,183 | $17,331.28 |

As a group, Route Operators own a significant portion of the machines in Montana. Average net income per machine for machines that were in operation a full four quarters in FY 1996.

| Machines | Rt.OP | Total VGMs | AVG.Income/machine/yr. |
|---|---|---|---|
| 1 - 50 machines | " | 1115 | $14,748.52 |
| 51 - 100 machines | " | 691 | $13,644.96 |
| 151- 200 machines | " | 511 | $14,136.56 |
| 201- 250 machines | " | 433 | $18,624.65 |
| 251- 300 machines | " | 283 | $16,652.03 |
| 301+ machines | " | 1715 | $16,363.56 |

In order to understand the magnitude of the potential income producing power of VGMs it is important to look not only at average machine income per year but also the upper end of the spectrum. There were five VGMs that produced record high gross income, over $100,000 each in FY 96:

| | | FY96 Income |
|---|---|---|
| **Helena** | **1 machine** | **$143,752** |
| **Helena** | **1 machine** | **$128,779** |
| **Kalispell** | **1 machine** | **$114,146** |
| **Helena** | **1 machine** | **$108,819** |
| **Great Falls** | **1 machine** | **$103,312** |

In FY 1996, 10 establishments (all with 20 machines) had a gross income from video gambling machines of more than $1,000,000 each. Of those 10, the highest was $1.5 million gross income and the lowest of the 10 was $1,018,000.

In FY 1996, 110 establishments (all with 20 machines) had a gross income from video gambling machines of over $500,000 each.

**VGMs Not Upgradeable to Dial-up Standards:**

Currently, 719 out of 15,787 video gambling machines in Montana are not capable of being upgraded or would be too costly to be upgraded to dial-up standards. These machines are being eliminated or phased out by establishments and route operators on a regular basis because most of these machines are over 10 years old. Every license renewal period, the Division finds that owners have removed a number of these machines from the market, and it is expected that this trend will continue. In FY 1994, by comparison, approximately 1,800 VGMs were incapable of being upgraded to dial-up standards.

Life expectancy varies with each individual machine type, and machines are often replaced for marketing reasons rather than for any physical malfunction. Newer machines offer more varied and interesting graphics, game play, and increased ease of operation and maintenance. The industry depreciates machines over 3-5 years.

## IIc. Enforcement Statistics

The Division is completing implementation of a data base for gambling violations. This will provide better statistics on both criminal and civil violations. The following information has been compiled using existing case files (data shown is for Fiscal Year 1996, calendar year 1996, or for Fiscal Year 1995).

**Enforcement: Criminal Cases**

*(Note: only portions of the gambling statutes allow for criminal prosecution rather than civil violation. In presenting a criminal case for prosecution, the State must prove intent to commit a crime.)*

In 1996, **10 Felony and 2 misdemeanor cases** were referred to County Attorneys, for such crimes as:

**Felonies:**

- credit gambling
- undisclosed financial interest
- illegal management agreement
- illegal machine shipments and sales
- theft from machines

**Misdemeanors:**

- after hour liquor sales
- illegal video gambling machine play

**Enforcement: Civil Cases**

*(Note: all civil cases are subject to the review and appeal provisions of the Montana Administrative Procedure Act.)*

| | |
|---|---|
| Corrections/warnings issued, | FY96: 84 |
| Violations issued, | FY96: 28 |
| Violations issued, | FY95: 27 |
| Notice to appear, | FY96: 4 |

| | | |
|---|---|---|
| Recordkeeping penalties, | FY95: 166 | FY96: 173 |
| Cases closed, all types, | FY95: 1703 | FY96: 1548 |

## Enforcement: Taxes

When establishments fail to pay taxes and respond to written requests for payment the Division issues a Temporary Cease and Desist order. When a Temporary Cease and Desist order is issued, most establishments pay both the taxes and the penalties associated with nonpayment to avoid a shutdown. In FY 96 seven establishments were actually shutdown because of nonpayment. In FY 96 14 cease and desist orders were requested and 10 were issued. Non-payment of taxes may result from a failure to pay taxes when due or a failure to pay taxes and penalties due following an audit.

## Investigations

| | |
|---|---|
| Offense Investigations, | FY94: 415 |
| | FY95: 387 |
| | FY96: 398 |

## III. GAMBLING LICENSES AND PERMITS

### A. Introduction

The Gambling Control Division is directed by statute to provide licensing procedures, prescribe application forms, and grant or deny license applications (§23-5-115(3), MCA). According to §23-5-110(2), MCA, issuance of a license or permit is a privilege, not a right, that is revocable for good cause only. A licensee does not acquire a vested right in a license or permit and may not sell, assign, lease, or transfer a license or permit. All licenses and permits expire annually on June 30, except for a card dealer's license, which expires on the licensee's birthday.

Licensing process. To obtain a gambling license and related permits, a person must submit to the Gambling Control Division a completed application and supporting documents plus processing and licensing fees, if required. After receiving the application, the Division reviews it for minimum requirements, and the applicant is contacted in writing if additional information is needed. An investigation, including a financial review, is then conducted in the field. The applicant is again contacted if more documentation is necessary. A computerized Criminal Justice Information Network (CJIN) check on the applicant is conducted while the financial review is underway. The investigator interviews the applicant, conducts follow-up investigations, and inspects the applicant's premises. The investigation report and application materials are returned to the Division for a final determination on the applicant's suitability for licensure. Any licensing determination made by the Division (e.g., approval, denial, placement of conditions) may be appealed to an independent hearing examiner appointed by the Division. After exhausting all administrative remedies, an applicant may appeal to state district court.

Qualifications for licensure. Section 23-5-176, MCA, provides that the Division must issue a license to an applicant unless the Division can demonstrate that the applicant:

(1) is a person whose prior activities or criminal record poses a threat to the public interest of the state; poses a threat to the effective regulation and control of gambling; or creates a danger of illegal practices in the conduct of gambling;

(2) has been convicted of a felony offense within five years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense;

(3) is receiving a substantial amount of financing for the proposed operation from an unsuitable source; or

(4) has falsified a license or permit application.

Conditional licenses. Section 23-5-115, MCA, allows the Division to place conditions on a license. Typically a conditional license will state specific terms under which the licensee must operate in order to remain licensed (e.g., payment of video gambling machine taxes in full and on time). In some cases, the conditions require the licensee to supply additional information or documentation to the Division within a specified period of time (e.g., a lease agreement reflecting market value rates). If the conditions are met, the Division will issue a standard license. If the conditions are not met, the Division may initiate revocation of the license.

## B. Gambling Licenses

As required by statute and rule, the Gambling Control Division issues ten separate licenses for the following occupations:

- operator;
- card dealer;
- card room contractor;
- gambling device manufacturer;
- gambling device distributor;
- gambling device route operator;
- manufacturer of illegal gambling devices;
- sports tab card manufacturer;
- electronic live bingo and keno equipment manufacturer; and
- antique slot machine dealer.

The following sections describe the licenses issued by the Division. License fee revenue collections and distribution are covered in Chapter IV.

Operator's licenses. Before a person may operate video gambling machines or live games (i.e., cards, bingo, or keno), he or she must obtain an operator's license. In addition, a person seeking to conduct a live card game or operate video gambling machines must possess a license to sell alcoholic beverages for on-premises consumption.[5] A liquor license is not required to provide other forms of gambling except sports tabs.

The table on the next page lists the number and types of operator's licenses initially issued or renewed in fiscal years 1995 and 1996:

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[5] Certain "grandfather" provisions allow card game table and video gambling machine permits to be issued to a person who legally operated a table or machine on January 15, 1989, but did not have a liquor license on that date (§23-5-306 and -611, MCA).

**TABLE 3.1**
**Operator's Licenses Initially Issued or Renewed**
**Fiscal Years 1995 and 1996**

| Type of License | FY 1995 | FY 1996 |
|---|---|---|
| Standard | 1,600 | 1,562 |
| Provisional | 67 | 59 |
| Conditional | 28 | 80 |
| Totals | 1,695 | 1,701 |

Card dealer's licenses. A card dealer's license is required to deal cards in a game of poker or panguingue. An applicant may obtain a temporary 90-day dealer's license by completing and mailing to the Gambling Control Division the application materials obtained at a local driver license station. In fiscal year 1995, the Division issued 459 dealer's licenses; 395 licenses were issued in fiscal year 1996.

Card room contractor's licenses. Effective July 1, 1991, a person was permitted to contract with an operator to conduct live card game tables on the operator's premises, if the person obtained a license from the Gambling Control Division. At the time of application, the applicant must submit a copy of the agreement entered into with the operator. Thirty card room contractor's licenses were issued in fiscal year 1995 and thirty-one in fiscal year 1996.

Manufacturer-distributor-route operator licenses. The manufacturer-distributor-route operator license issued by the Division covers three different occupations involving gambling devices and equipment: manufacturer[6], distributor[7], and route

[6] A manufacturer is a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

[7] A distributor is a person who purchases or obtains equipment for use in gambling activities and who sells the equipment to another person for use in public.

operator[8]. The following table lists the number of manufacturer, distributor's, and route operator licenses issued in fiscal years 1995 and 1996 according to occupation.

**TABLE 3.2**
**Manufacturer, Distributor and Route Operator Licenses Issued By Occupation**
**Fiscal Years 1995 and 1996**

| Occupation Type | FY 1995 | FY 1996 |
|---|---|---|
| Manufacturer | 7 | 6 |
| Distributor | 4 | 5 |
| Route Operator | 106 | 102 |
| Manufacturer/Distributor | 6 | 6 |
| Distributor/Route Operator | 12 | 13 |
| Manufacturer/Distributor/Route Operator | 1 | 1 |
| Totals | 136 | 133 |

**Manufacturer's licenses for illegal devices.** State law permits a person to manufacture, for export, gambling devices that are not legal in Montana, if a license is obtained from the Gambling Control Division. The Division licensed five businesses to manufacture illegal devices in both fiscal year 1995 and fiscal year 1996.

**Sports tab card manufacturer's licenses.** In 1991, the Legislature legalized sports tab games and required manufacturers wishing to sell sports tab cards in the state to obtain a license from the Gambling Control Division. The Division licensed one sports tab card manufacturer in fiscal years 1995 and 1996.

[8] A route operator is a person who purchases gambling devices or associated equipment and leases the devices or equipment to an operator for use in public.

**Electronic live bingo or keno equipment manufacturer's licenses.** Also in 1991, the Legislature required manufacturers of electronic live bingo or keno equipment[9] to be licensed by the Gambling Control Division before conducting business in the state. No electronic live bingo or keno equipment manufacturer's licenses were issued in fiscal year 1993 and 1994.

**Antique slot machine dealer's licenses.** Another license created by the 1991 Legislature was for the commercial sale of antique slot machines[10]. A person other than a licensed manufacturer-distributor may not sell more than three antique slot machines in a 12-month period without obtaining a license from the Gambling Control Division. The license may not be issued to a licensed gambling operator. The Division issued 3 antique slot machine dealer licenses in fiscal year 1995 and 6 in fiscal year 1996.

### C. Gambling Permits

Once a person is issued an operator's license, the licensee may obtain permits from the Gambling Control Division to conduct the following gambling activities:

- video gambling machines;
- live card game tables;
- card game tournaments; and
- live bingo and keno games.

A person need not be a licensed operator to conduct other legal gambling activities;[11] however, a permit must be obtained to conduct a raffle, calcutta pool, or casino night. Raffle permits are issued by each board of county commissioners

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[9] Electronic live bingo or keno equipment is an electronic device or system that uses a microprocessor to generate random numbers during a live bingo or keno game.

[10] An antique slot machine is defined as a mechanically or electronically operated slot machine that at any present time is more than 25 years old. It may be possessed, located, and operated only in a private residence or possessed or located for display purposes only and not for operation in a public museum.

[11] For example, although an operator's license is not needed to conduct shake-a-day, shaking for music or a drink, or sport tab games, a license for the on-premises consumption of alcoholic beverages is required.

for raffles conducted within its jurisdiction. The Gambling Control Division is responsible for issuing Calcutta pool and casino night permits.

The following sections describe the permits issued by the Division. Permit fee revenue collections and distribution are covered in Chapter IV.

Video gambling machine permits. A permit is required for each video gambling machine made available for play on an operator's premises. When a machine is moved from one location to another, a new permit must be issued for the machine. Table 3.3 provides data on the number of video gambling machine permits issued in fiscal years 1988 through 1996.

**TABLE 3.3**
**Video Gambling Machine Permits Issued By Machine Type**
**Fiscal Years 1988 Through 1996**

| Fiscal Year | Poker | Keno | Bingo | Total |
|---|---|---|---|---|
| 1988 | 4,564 | 3,786 | 112 | 8,462 |
| 1989 | 5,107 | 4,502 | 60 | 9,669 |
| 1990 | 6,220 | 4,729 | 22 | 10,971 |
| 1991 | 7,353 | 5,268 | 0 | 12,621 |
| 1992 | 7,910 | 6,455 | 0 | 14,365 |
| 1993 | 8,650 | 7,839 | 0 | 16,489 |
| 1994 | 8,428 | 8,612 | 0 | 17,040 |
| 1995 | 8,085 | 9,466 | 0 | 17,551 |
| 1996 | 8,290 | 10,289 | 8 | 18,587 |

For fiscal years 1986 and 1987, the state licensed only video poker machines. State regulatory control was extended to keno and bingo machines beginning in fiscal year 1988.

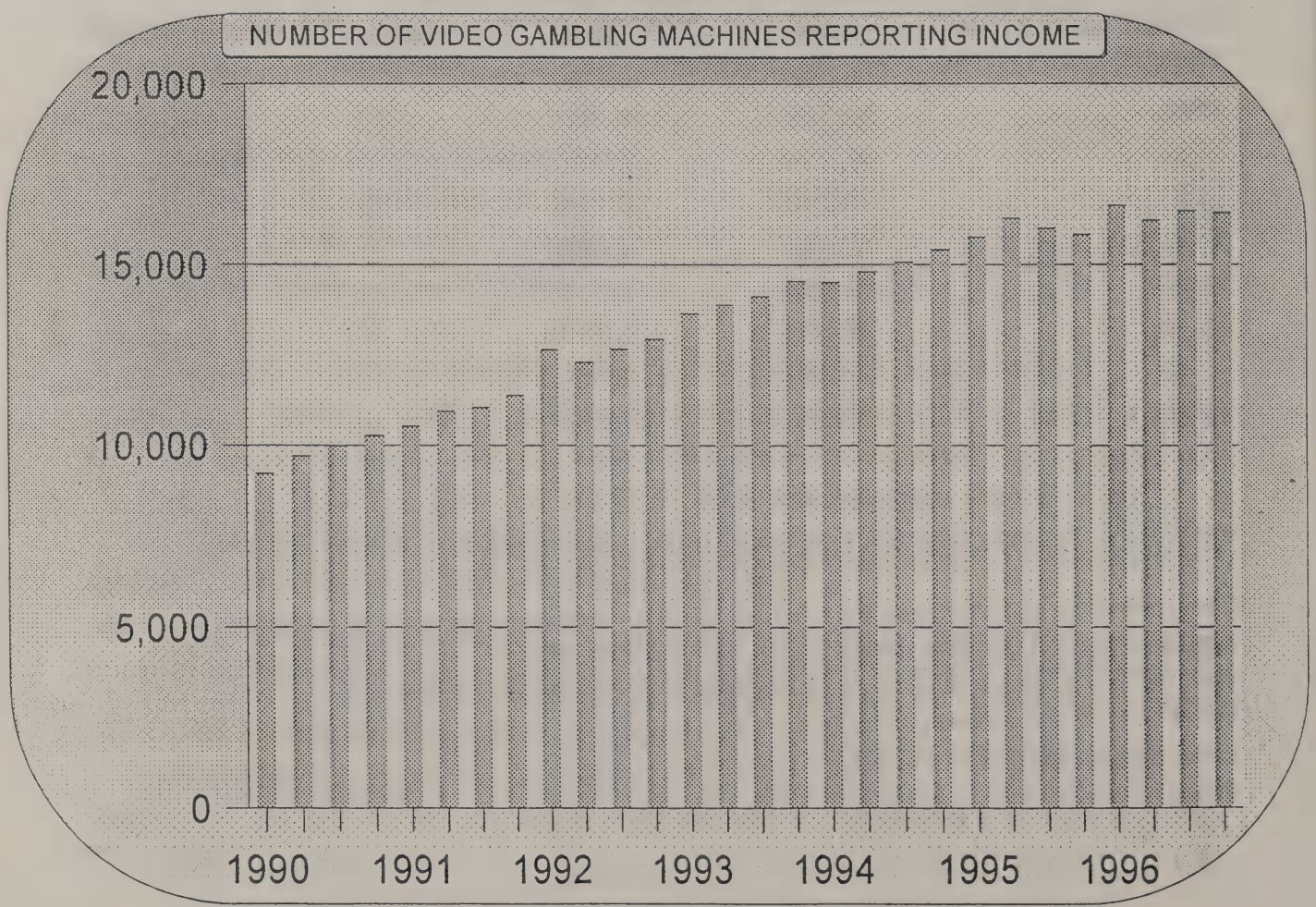
Because a video gambling machine must be issued a new permit each time it changes locations, the number of permits issued is not equivalent to the number of machines operating in a given fiscal year. A more accurate reflection of the number of active machines is the number of machines reporting income for video gambling machine tax purposes. Table 3.4 and the graph on the following page provide information on the number of reporting machines for fiscal years 1990 through 1996.

TABLE 3.4

Number of Video Gambling Machines Reporting Income

Fiscal Years 1990 Through 1996

| Fiscal Year | 1st Qtr. | 2nd Qtr. | 3rd Qtr. | 4th Qtr. |
|---|---|---|---|---|
| 1990 | 9,231 | 9,698 | 9,975 | 10,268 |
| 1991 | 10,526 | 10,939 | 11,046 | 11,390 |
| 1992 | 12,650 | 12,300 | 12,658 | 12,937 |
| 1993 | 13,641 | 13,891 | 14,116 | 14,540 |
| 1994 | 14,510 | 14,803 | 15,072 | 15,411 |
| 1995 | 15,757 | 16,277 | 16,004 | 15,844 |
| 1996 | 16,646 | 16,235 | 16,494 | 16,455 |



An operator may place up to 20 video gambling machines of any legal type (i.e., poker, bingo, or keno) on his or her premises. Table 3.5 provides data on the number of premises with a specific number of machines as of June 30, 1996.

**TABLE 3.5**
**Number of Video Gambling Machine Permits Issued Per Premises**
**As of June 30, 1996**

| No. of Machines on Premises | No. of Premises | Machines | Total Percent Premises | Machines |
|---|---|---|---|---|
| 1 | 65 | 65 | | |
| 2 | 84 | 168 | | |
| 3 | 113 | 339 | | |
| 4 | 129 | 516 | | |
| 5 | 142 | 710 | | |
| **Totals** | **533** | **1,798** | **33.2%** | **11.5%** |
| 6 | 144 | 864 | | |
| 7 | 90 | 630 | | |
| 8 | 100 | 800 | | |
| 9 | 67 | 603 | | |
| 10 | 85 | 850 | | |
| **Totals** | **486** | **3,747** | **30.2%** | **24.0%** |
| 11 | 46 | 506 | | |
| 12 | 41 | 492 | | |
| 13 | 36 | 468 | | |
| 14 | 36 | 504 | | |
| 15 | 44 | 660 | | |
| **Totals** | **203** | **2,630** | **12.6%** | **16.9%** |
| 16 | 32 | 512 | | |
| 17 | 26 | 442 | | |
| 18 | 20 | 360 | | |
| 19 | 30 | 570 | | |
| 20 | 277 | 5,540 | | |
| 21 | 0 | 0 | | |
| **Totals** | **385** | **7,424** | **24.0%** | **47.6%** |
| | **Total Premises - 1607** | **Total Machines - 15,599** | | |

As indicated on the previous page, over one-third of the premises (33.2 percent) operate from one to five video gambling machines, which in total comprise about 11.5 percent of the machines in play. In contrast, approximately 24 percent of the premises offer from 16 to 20 video gambling machines, which represents 47.6 percent of the machines in play. The average number of machines per premises is approximately 10.

**Live bingo and keno permits.** A live bingo and keno permit allows commercial operators to conduct either game or both games on their premises for a fee of $250. Certain groups are exempt from the fee: nonprofit organizations qualified under 26 U.S.C. 501(c)(3), (4), (8), or (19) that qualified for the federal exemption on or before January 15, 1989; long-term care facilities; retirement homes; and senior citizen centers. Nonprofit organizations that qualified for the federal exemption after January 15, 1989, are exempt from one-half of the fee (i.e., $125). Table 3.6 lists the number of live bingo and keno permits issued according to the type of game offered for fiscal years 1992 through 1996.

**TABLE 3.6**
**Number of Live Bingo and Keno Permits Issued**
**Fiscal Years 1992 Through 1996**

| Type of Licensee | Type of Game | Fiscal Years 1992 | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|---|---|
| Commercial Establishment | Bingo | 49 | 43 | 36 | 33 | 33 |
| | Keno | 44 | 40 | 39 | 34 | 32 |
| | Bingo/Keno | 6 | 10 | 9 | 4 | 5 |
| | Subtotal | 99 | 93 | 84 | 71 | 70 |
| Exempt Organization | Bingo | 89 | 60 | 59 | 67 | 60 |
| | Keno | 1 | 1 | 2 | 1 | 1 |
| | Bingo/Keno | 3 | 10 | 0 | 1 | 0 |
| | Subtotal | 93 | 61 | 61 | 69 | 61 |
| | Total | 192 | 154 | 145 | 140 | 131 |

**Live card game table permits.** A live card game table permit is required to conduct any legal card game involving gambling. The permit fee is $250 for the first table operating in an establishment and $500 for each additional table. Table 3.7 on the following page lists the number of live card game table permits issued for fiscal years 1992 through 1996.

**TABLE 3.7**
**Number of Live Card Game Table Permits Issued**
**Fiscal Years 1992 Through 1996**

| Fiscal Year | First Table | Additional Tables | Total |
|---|---|---|---|
| 1992 | 233 | 50 | 283 |
| 1993 | 215 | 59 | 274 |
| 1994 | 209 | 55 | 264 |
| 1995 | 210 | 61 | 271 |
| 1996 | 207 | 57 | 264 |

**Card game tournament permits.** An operator with at least one live card game table permit may conduct up to 12 live card game tournaments a year. Each tournament may be conducted for up to five consecutive days, and at least seven days must lapse between tournaments.

| FY1992 | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|
| 57 | 67 | 105 | 122 | 140 |

**Calcutta pool permits.** A description of a Calcutta pool can be found on page 3.

| FY1992 | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|
| 63 | 62 | 57 | 69 | 75 |

**Casino nights.** Authorization to conduct casino nights was effective July 1, 1991. A description of a casino night can be found on page 3.

| FY1992 | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|
| 12 | 14 | 15 | 25 | 19 |

## IV. GAMBLING REVENUES

Gambling revenues are generated from three main sources: taxes, permit fees, and license fees. This chapter describes these revenue sources, the amount collected from each source, and distribution of the revenue. A description of the permits and licenses issued by the Gambling Control Division and statistics on the number issued are contained in Chapter III.

### A. Gambling Taxes

The Gambling Control Division collects taxes on the following gambling activities:

- video gambling machines;
- live bingo;
- live keno; and
- sports tab games.

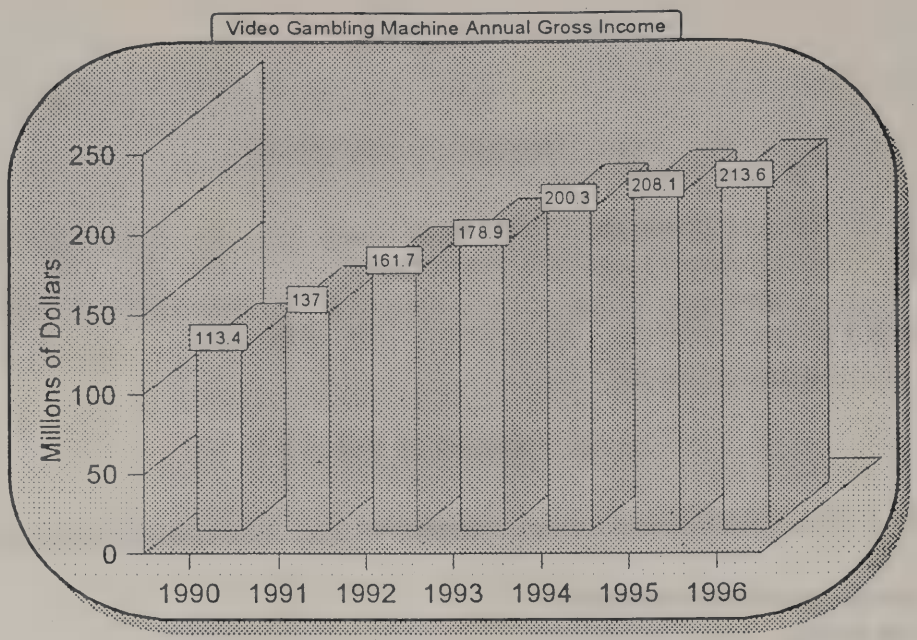
The following sections describe the taxes collected by the Division. A summary of the gambling taxes is contained in Appendix A.

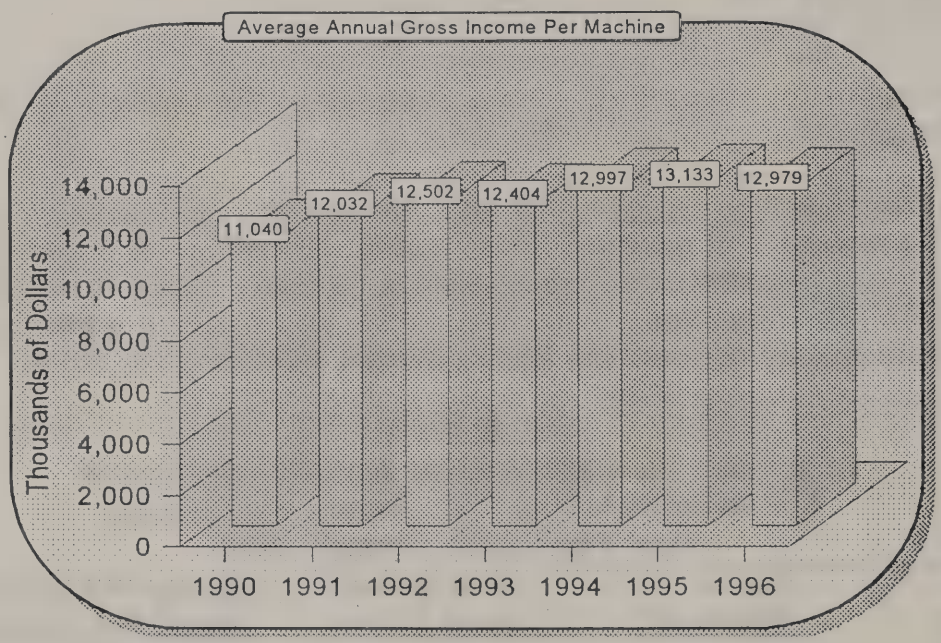
**Video gambling machine gross income tax.** The tax on video gambling machines is based on a percentage of machine gross income. Gross income is defined as the money put into a machine minus credits paid out in cash. Table 4.1 below and the graphs on the following page provide data on the total machine gross income and average gross income per machine for fiscal years 1990 through 1996.

**TABLE 4.1**
**Total Video Gambling Machine Annual Gross Income**
**And Average Annual Gross Income Per Machine**
**Fiscal Years 1990 Through 1996**

| Fiscal Year | No. of Machines[1] | Total Annual Gross Income | Average Annual Gross Income Per Machine |
|---|---|---|---|
| 1990 | 10,268 | 113,363,300 | 11,040 |
| 1991 | 11,390 | 137,044,407 | 12,032 |
| 1992 | 12,937 | 161,732,920 | 12,502 |
| 1993 | 14,540 | 178,900,000 | 12,304 |
| 1994 | 15,411 | 200,300,000 | 12,997 |
| 1995 | 15,844 | 208,072,577 | 13,133 |
| 1996 | 16,455 | 213,565,116 | 12,979 |

[1] Machines reporting income for tax purposes for fourth quarter in each fiscal year.




The annual gross income for all machines in fiscal year 1988 was $70 million; this figure grew to $213.6 million in fiscal year 1996, a 190 percent increase. Average gross income per machine increased 42 percent during this same period, from $9,161 in fiscal year 1988 to $12,979 in fiscal year 1996.

The table on the following page pertains to video gambling machines that operated at the same location for an entire year during fiscal years 1995 and/or 1996; the data show the number of machines reporting annual gross income within various income categories.

**TABLE 4.2**
**Number of Video Gambling Machines[1]**
**By Annual Gross Income Category**
**Fiscal Years 1995 and 1996**

| Annual Gross Income | | | Number of Machines FY 95 | Number of Machines FY 96 |
|---|---|---|---|---|
| $ 0 | - | $ 500 | 18 | 25 |
| 501 | - | 1,000 | 1000 | 75 |
| 1,001 | - | 2,000 | 286 | 313 |
| 2,001 | - | 3,000 | 412 | 421 |
| 3,001 | - | 4,000 | 464 | 425 |
| 4,001 | - | 5,000 | 458 | 530 |
| | | **Total** | **1,716** | **1,789** |
| $ 5,001 | - | $ 6,000 | 485 | 462 |
| 6,001 | - | 7,000 | 475 | 441 |
| 7,001 | - | 8,000 | 409 | 433 |
| 8,001 | - | 9,000 | 411 | 395 |
| 9,001 | - | 10,000 | 359 | 373 |
| | | **Total** | **2,139** | **2,104** |
| $ 10,001 | - | $ 15,000 | 1,380 | 1,322 |
| 15,001 | - | 20,000 | 893 | 839 |
| 20,001 | - | 25,000 | 638 | 666 |
| 25,001 | - | 30,000 | 490 | 507 |
| 30,001 | - | 35,000 | 341 | 399 |
| 35,001 | - | 40,000 | 240 | 304 |
| 40,001 | - | 45,000 | 175 | 222 |
| 45,001 | - | 50,000 | 144 | 133 |
| 50,001 | - | 55,000 | 90 | 76 |
| 55,001 | - | 60,000 | 54 | 71 |
| 60,001 | - | 65,000 | 42 | 33 |
| 65,001 | - | 70,000 | 22 | 19 |
| 70,001 | - | 75,000 | 17 | 10 |
| 75,001 | - | 80,000 | 8 | 11 |
| 80,001 | - | 85,000 | 7 | 7 |
| 85,001 | - | 90,000 | 8 | 5 |
| 90,001 | - | 95,000 | 2 | 2 |
| 95,001 | - | 100,000 | 3 | 1 |
| 100,001 | - | 110,000 | 4 | 2 |
| | | **Total** | **4,559** | **4,631** |
| **Total machines (All categories)** | | | **8,414** | **8,524** |

[1] Includes machines operating in the same location for an entire year.

Slightly less than half of the video gambling machines operating in the same location during fiscal year 1995 or 1996 had gross incomes of $10,000 or less. Approximately one-fourth of all machines (for fiscal years 1995 and 1996, respectively) fall into the $10,001 to $20,000 income range.

Table 4.3 on the following page provides fiscal year 1995 and 1996 data on total video gambling machine gross income (i.e., money put into the machines minus credits paid out in cash) received by establishments that had at least one machine operating for 90 days or more in each quarter of the fiscal year.

## TABLE 4.3
## Number of Establishments[1]
## By Annual Video Gambling Machine Gross Income
## Fiscal Years 1995 and 1996

| Annual Gross Income | | | Number of Establishments | | | |
|---|---|---|---|---|---|---|
| | | | FY 95 | % of Total | FY 96 | % of Total |
| $ 0 | - | $ 1,000 | 3 | | 5 | |
| 1,001 | - | 2,000 | 12 | | 13 | |
| 2,001 | - | 3,000 | 19 | | 9 | |
| 3,001 | - | 4,000 | 11 | | 14 | |
| 4,001 | - | 5,000 | 12 | | 17 | |
| 5,001 | - | 6,000 | 10 | | 17 | |
| 6,001 | - | 7,000 | 18 | | 12 | |
| 7,001 | - | 8,000 | 14 | | 14 | |
| 8,001 | - | 9,000 | 11 | | 12 | |
| 9,001 | - | 10,000 | 7 | | 13 | |
| 10,001 | - | 11,000 | 10 | | 7 | |
| 11,001 | - | 12,000 | 15 | | 17 | |
| 12,001 | - | 13,000 | 19 | | 12 | |
| 13,001 | - | 14,000 | 8 | | 12 | |
| 14,001 | - | 15,000 | 13 | | 14 | |
| 15,001 | - | 16,000 | 10 | | 13 | |
| 16,001 | - | 17,000 | 4 | | 14 | |
| 17,001 | - | 18,000 | 13 | | 15 | |
| 18,001 | - | 19,000 | 10 | | 13 | |
| 19,001 | - | 20,000 | 15 | | 11 | |
| 20,001 | - | 21,000 | 13 | | 15 | |
| 21,001 | - | 22,000 | 13 | | 10 | |
| 22,001 | - | 23,000 | 14 | | 6 | |
| 23,001 | - | 24,000 | 14 | | 16 | |
| 24,001 | - | 25,000 | 10 | | 6 | |
| | | **Total** | **298** | **30%** | **307** | **30%** |
| $ 25,001 | - | $ 50,000 | 203 | | 201 | |
| 50,001 | - | 75,000 | 107 | | 113 | |
| 75,001 | - | 100,000 | 65 | | 87 | |
| | | **Total** | **375** | **38%** | **401** | **39%** |
| $ 100,001 | - | $ 125,000 | 64 | | 40 | |
| 125,001 | - | 150,000 | 38 | | 34 | |
| 150,001 | - | 175,000 | 26 | | 23 | |
| 175,001 | - | 200,000 | 28 | | 14 | |
| 200,001 | - | 225,000 | 14 | | 15 | |
| 225,001 | - | 250,000 | 15 | | 14 | |
| 250,001 | - | 275,000 | 9 | | 20 | |
| 275,001 | - | 300,000 | 9 | | 16 | |
| 300,001 | - | 400,000 | 42 | | 46 | |
| 400,001 | - | 500,000 | 28 | | 26 | |
| 500,001 | - | 600,000 | 17 | | 31 | |
| 600,001 | - | 700,000 | 17 | | 24 | |
| 700,001 | - | 800,000 | 9 | | 10 | |
| 800,001 | - | 900,000 | 11 | | 6 | |
| 900,001 | - | 1,000,000 | 3 | | 1 | |
| 1,000,001 | - | 1,100,000 | 4 | | 1 | |
| 1,100,001 | - | 1,200,000 | 0 | | 1 | |
| 1,200,001 | - | 1,300,000 | 2 | | 2 | |
| 1,300,001 | - | 1,400,000 | 1 | | 0 | |
| 1,400,001 | - | 1,500,000 | 0 | | 0 | |
| >1,500,000 | | | 0 | | 0 | |
| | | **Total** | **337** | **34%** | **324** | **32%** |
| | | **Grand Total** | **1010** | **100%** | **1032** | **100%** |

[1] Establishments with one or more machines operating for 90 days in each quarter.

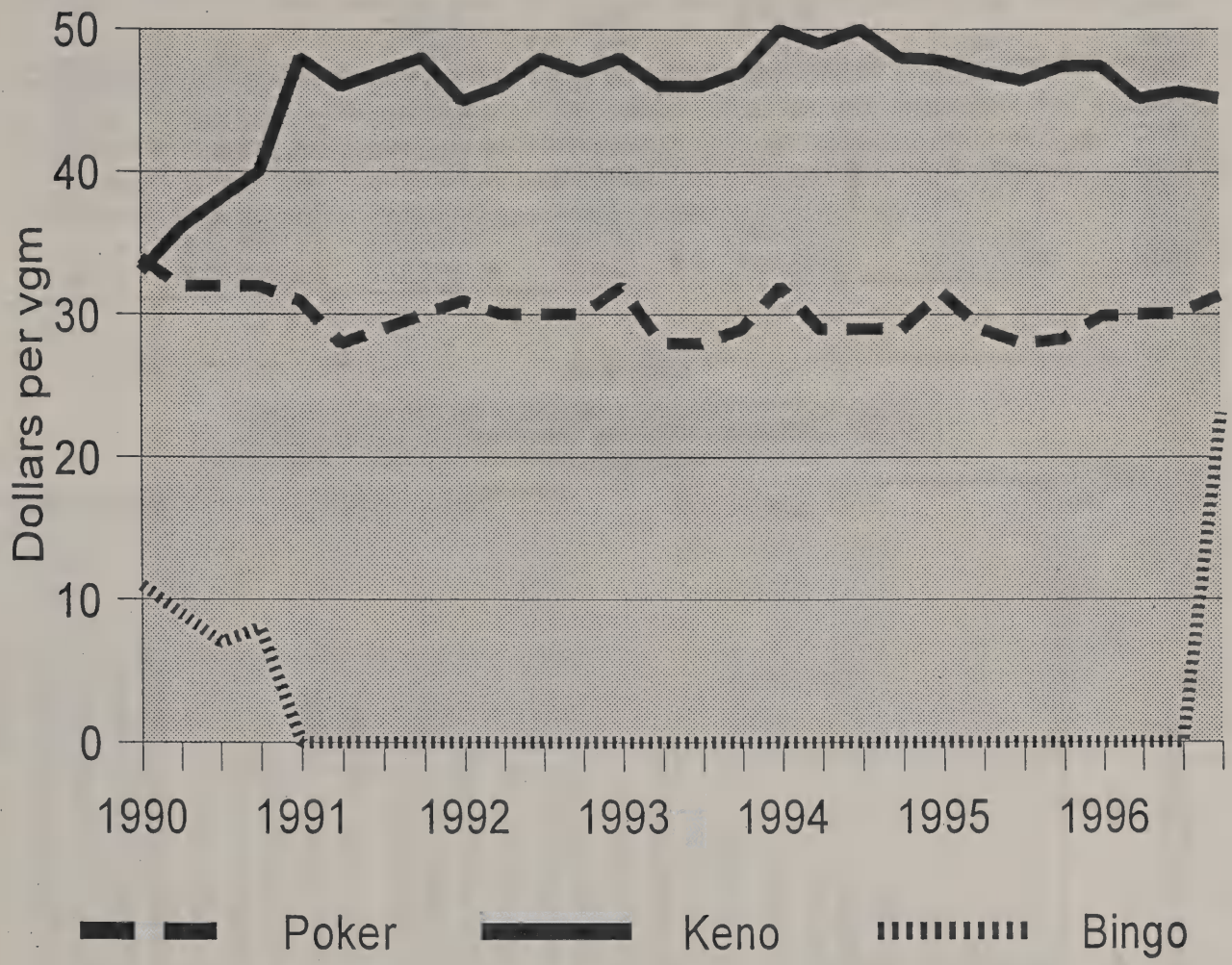
Table 4.4 below and the graph on the following page provide data on the average daily gross income for video gambling machines by machine type and by quarter for fiscal years 1990 through 1996.

**TABLE 4.4**
**Average Daily Gross Income by Machine Type**
**Fiscal Years 1990 Through 1996**

| Fiscal Yr | Quarter | Poker | Keno | Bingo |
|---|---|---|---|---|
| 1990 | 1st | $34 | $33 | $11 |
| | 2nd | 32 | 36 | 9 |
| | 3rd | 32 | 38 | 7 |
| | 4th | 32 | 40 | 8 |
| 1991 | 1st | $31 | $48 | $-[1] |
| | 2nd | 28 | 46 | - |
| | 3rd | 29 | 47 | - |
| | 4th | 30 | 48 | - |
| 1992 | 1st | $31 | $45 | - |
| | 2nd | 30 | 46 | - |
| | 3rd | 30 | 48 | - |
| | 4th | 30 | 47 | - |
| 1993 | 1st | $32 | $48 | - |
| | 2nd | 28 | 46 | - |
| | 3rd | 28 | 46 | - |
| | 4th | 29 | 47 | - |
| 1994 | 1st | $32 | $50 | - |
| | 2nd | 29 | 49 | - |
| | 3rd | 29 | 50 | - |
| | 4th | 29 | 48 | - |
| 1995 | 1st | $32 | $48 | - |
| | 2nd | 29 | 47 | - |
| | 3rd | 28 | 46 | - |
| | 4th | 28 | 47 | - |
| 1996 | 1st | $30 | $47 | - |
| | 2nd | 30 | 45 | - |
| | 3rd | 30 | 46 | - |
| | 4th | 31 | 45 | $23 |

[1] No approved bingo machines operating in the state beginning first quarter of fiscal year 1991 through fourth quarter fiscal year 96.

## AVERAGE DAILY GROSS INCOME BY MACHINE TYPE FY '90-'96

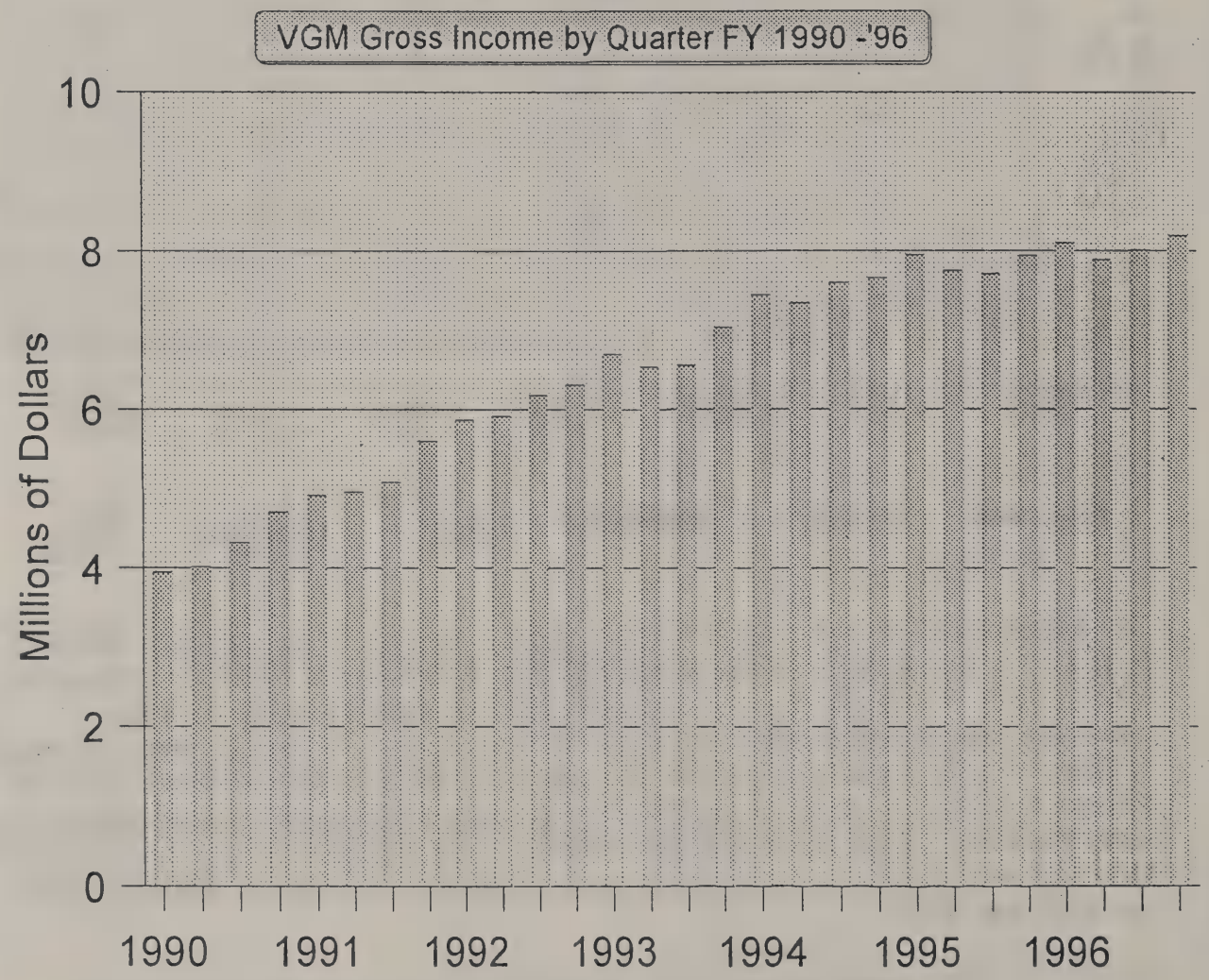



The average daily gross income for video poker machines has gradually declined from $38 in first quarter of fiscal year 1988 to $28 in second quarter of fiscal year 1991. Since fourth quarter of fiscal year 1991, the daily income for poker machines has stabilized at around $30. Video keno machines experienced a steady increase in daily gross income until the advent of $800 poker machines in FY 95. Several factors may account for the differences in daily gross between poker and keno machines. Keno machines, for instance, may attract more play because of their higher maximum payout during most of this time period (i.e, $800 for keno vs. $100 for poker).

The tax on video gambling machines is equal to 15 percent of gross machine income. It is collected on a quarterly basis, and payment is due within 15 days after the end of the quarter. The following table and graph show the video gambling machine tax revenue collected by quarter from fiscal year 1990 through 1996.

TABLE 4.5
Video Gambling Machine Gross Income Tax Revenues
Fiscal Years 1990 Through 1996

| Fiscal Year | First Qtr | Second Qtr | Third Qtr | Fourth Qtr | Total | % Change |
|---|---|---|---|---|---|---|
| 1990 | 3,949,782 | 4,024,386 | 4,317,195 | 4,713,132 | 17,004,495 | 26% |
| 1991 | 4,919,102 | 4,959,603 | 5,082,883 | 5,595,073 | 20,556,661 | 21% |
| 1992 | 5,866,027 | 5,906,815 | 6,180,904 | 6,306,192 | 24,259,938 | 18% |
| 1993 | 6,698,211 | 6,538,173 | 6,560,840 | 7,041,764 | 26,838,988 | 11% |
| 1994 | 7,451,739 | 7,338,880 | 7,603,432 | 7,658,536 | 30,052,587 | 12% |
| 1995 | 7,950,043 | 7,748,440 | 7,708,615 | 7,940,884 | 31,347,982 | 4.3% |
| 1996 | 8,097,592 | 7,893,431 | 8,013,103 | 8,194,797 | 32,198,923 | 2.7% |



As noted in Table 4.5, tax revenues have doubled between fiscal years 1990 and 1996. However, the annual rate of increase has declined during this period.

One-third of the tax revenue from video gambling machines is deposited into the state general fund. The remaining two-thirds is distributed to the county[12], city, or town where each machine is located for deposit in the county or municipal treasury. Table 4.6 lists the amount of tax revenue distributed to the state general fund and local governments in fiscal years 1990 through 1996.

**TABLE 4.6**
**Distribution of Video Gambling Machine Gross Income Tax Revenue**
**Fiscal Years 1990 Through 1996**
**(In Millions)**

| Fiscal Year | State Gen. Fund (1/3) | Local Gov't. (2/3) | Total |
|---|---|---|---|
| 1990 | 5.7 | 11.3 | 17.0 |
| 1991 | 6.8 | 13.7 | 20.5 |
| 1992 | 8.1 | 16.1 | 24.2 |
| 1993 | 8.9 | 17.9 | 26.8 |
| 1994 | 10.0 | 20.0 | 30.0 |
| 1995 | 10.5 | 20.8 | 31.3 |
| 1996 | 10.7 | 21.5 | 32.2 |

Table 4.6a on the following pages breaks out revenue distribution to cities and counties in Montana in fiscal year 1995 and 1996.

[12] A county receives income from those machines operating within its boundaries that are not located in an incorporated city or town.

TABLE 4.6 a
Distribution of Video Gambling Machine Gross Income Tax Revenue
To Cities and Counties
Fiscal Years 1995 and 1996

| CITY/COUNTY NAMES | FY 95 | FY 96 |
|---|---|---|
| 01 BUTTE/SILVERBOW | $1,329,649.67 | $1,396,062.95 |
| WALKERVILLE | $4,941.47 | $5,523.01 |
| 02 CASCADE CO | $289,395.45 | $271,452.43 |
| BELT | $22,277.33 | $21,757.34 |
| CASCADE | $18,940.00 | $17,530.67 |
| GREAT FALLS | $2,291,854.63 | $2,176,760.82 |
| NEIHART | $1,318.00 | $865.33 |
| 03 YELLOWSTONE CO | $195,335.73 | $179,455.13 |
| BILLINGS | $3,519,851.42 | $3,548,399.97 |
| BROADVIEW | $6,176.66 | $6,632.67 |
| LAUREL | $220,716.47 | $217,525.33 |
| 04 MISSOULA CO | $409,315.72 | $439,467.41 |
| MISSOULA | $1,849,304.03 | $1,872,111.75 |
| 05 LEWIS & CLARK CO | $142,638.41 | $169,025.66 |
| EAST HELENA | $69,020.81 | $115,872.06 |
| HELENA | $1,132,669.47 | $1,090,729.26 |
| 06 GALLATIN CO | $133,032.25 | $139,375.30 |
| BELGRADE | $101,439.33 | $124,026.67 |
| BOZEMAN | $520,702.00 | $552,202.67 |
| MANHATTAN | $22,786.67 | $28,631.33 |
| THREE FORKS | $24,086.00 | $27,609.34 |
| WEST YELLOWSTONE | $73,854.00 | $84,622.67 |
| 07 FLATHEAD CO | $491,024.25 | $510,405.50 |
| COLUMBIA FALLS | $142,170.00 | $192,927.34 |

| CITY/COUNTY NAMES | FY 95 | FY 96 |
|---|---|---|
| KALISPELL | $956,625.24 | $1,051,361.94 |
| WHITEFISH | $259,779.99 | $255,372.67 |
| 08 FERGUS CO | $32,911.84 | $24,292.07 |
| DENTON | $1,677.34 | $2,215.91 |
| GRASS RANGE | $7,793.33 | $4,550.67 |
| LEWISTOWN | $225,305.38 | $236,496.66 |
| MOORE | $3,078.66 | $3,098.00 |
| WINIFRED | $2,673.34 | $3,839.32 |
| 09 POWDER RIVER CO | $23.55 | $0.00 |
| BROADUS | $18,632.68 | $18,002.00 |
| 10 CARBON CO | $39,004.85 | $39,023.79 |
| BEARCREEK | $578.67 | $596.00 |
| BRIDGER | $38,487.99 | $47,205.33 |
| FROMBERG | $7,940.68 | $6,368.01 |
| JOLIET | $8,218.00 | $5,326.00 |
| RED LODGE | $77,408.67 | $78,324.00 |
| 11 PHILLIPS CO | $19,917.42 | $23,449.72 |
| DODSON | $3,008.00 | $2,742.00 |
| MALTA | $60,086.14 | $43,457.83 |
| SACO | $2,567.34 | $2,192.25 |
| 12 HILL CO | $65,246.96 | $62,600.45 |
| HAVRE | $386,265.67 | $417,131.43 |
| HINGHAM | $0.00 | $0.00 |
| 13 RAVALLI CO | $86,266.60 | $94,068.69 |
| DARBY | $13,197.52 | $12,073.73 |
| HAMILTON | $249,272.62 | $292,061.29 |
| STEVENSVILLE | $38,330.68 | $37,324.01 |
| 14 CUSTER CO | $22,529.63 | $18,903.27 |
| MILES CITY | $306,577.33 | $324,238.74 |
| 15 LAKE CO | $21,467.14 | $19,869.33 |

| CITY/COUNTY NAMES | FY 95 | FY 96 |
|---|---|---|
| POLSON | $0.00 | $0.00 |
| RONAN | $0.00 | $0.00 |
| ST. IGNATIUS | $0.00 | $0.00 |
| 16 DAWSON CO | $78,033.16 | $78,115.39 |
| GLENDIVE | $176,062.00 | $187,460.66 |
| RICHEY | $1,880.00 | $2,201.33 |
| 17 ROOSEVELT CO | $63,438.25 | $71,688.80 |
| BAINVILLE | $14,747.34 | $17,810.66 |
| BROCKTON | $2,825.33 | $1,540.00 |
| CULBERTSON | $9,233.33 | $10,984.67 |
| FROID | $3,806.67 | $5,963.33 |
| POPLAR | $38,316.41 | $38,744.96 |
| WOLF POINT | $63,593.33 | $56,864.01 |
| 18 BEAVERHEAD CO | $27,931.60 | $24,538.90 |
| DILLON | $159,817.38 | $166,364.91 |
| LIMA | $5,147.33 | $4,285.33 |
| 19 CHOUTEAU CO | $14,808.96 | $14,582.32 |
| BIG SANDY | $28,733.33 | $29,086.00 |
| FORT BENTON | $23,220.67 | $22,826.73 |
| GERALDINE | $3,469.34 | $3,814.66 |
| 20 VALLEY CO | $51,309.02 | $64,399.50 |
| GLASGOW | $67,776.08 | $77,902.53 |
| NASHUA | $4,557.32 | $6,067.99 |
| OPHEIM | $5,433.34 | $5,058.67 |
| FORT PECK | $0.00 | $0.00 |
| 21 TOOLE CO | $39,176.24 | $29,819.34 |
| KEVIN | $3,675.33 | $4,696.67 |
| SHELBY | $109,623.99 | $132,380.01 |
| SUNBURST | $3,387.33 | $4,521.33 |
| 22 BIG HORN CO | $6,827.27 | $6,837.07 |

| CITY/COUNTY NAMES | FY 95 | FY 96 |
|---|---|---|
| HARDIN | $202,226.67 | $219,248.67 |
| 23 MUSSELSHELL CO | $16,813.41 | $5,539.71 |
| MELSTONE | $1,646.66 | $2,058.67 |
| ROUNDUP | $73,374.53 | $77,083.33 |
| 24 BLAINE CO | $6,026.96 | $5,623.33 |
| CHINOOK | $61,882.00 | $67,513.34 |
| HARLEM | $38,436.66 | $37,158.00 |
| 25 MADISON CO | $27,797.60 | $34,414.66 |
| ENNIS | $37,096.59 | $29,019.33 |
| SHERIDAN | $7,788.66 | $6,428.66 |
| TWIN BRIDGES | $2,430.00 | $1,402.67 |
| VIRGINIA CITY | $9,381.34 | $10,200.67 |
| 26 PONDERA CO | $14,981.54 | $16,638.42 |
| CONRAD | $66,386.85 | $80,637.33 |
| VALIER | $5,579.33 | $5,922.00 |
| 27 RICHLAND CO | $22,592.00 | $22,609.31 |
| FAIRVIEW | $20,428.00 | $26,424.00 |
| SIDNEY | $187,185.34 | $190,686.00 |
| 28 POWELL CO | $20,610.87 | $24,214.25 |
| DEER LODGE | $133,632.36 | $133,314.80 |
| 29 ROSEBUD CO | $127,918.11 | $113,933.30 |
| FORSYTH | $65,221.34 | $63,652.85 |
| 30 ANACONDA/D.LODGE | $337,566.21 | $350,095.71 |
| 31 TETON CO | $8,530.04 | $8,532.59 |
| CHOTEAU | $38,657.33 | $40,474.40 |
| DUTTON | $10,030.00 | $9,705.33 |
| FAIRFIELD | $18,396.01 | $19,947.99 |

| CITY/COUNTY NAMES | FY 95 | FY 96 |
|---|---|---|
| 32 STILLWATER CO | $51,490.01 | $55,943.87 |
| COLUMBUS | $88,576.00 | $104,919.34 |
| 33 TREASURE CO | $71.44 | $13.25 |
| HYSHAM | $3,499.33 | $2,014.34 |
| 34 SHERIDAN CO | $7,146.46 | $7,369.94 |
| MEDICINE LAKE | $3,916.67 | $2,852.67 |
| OUTLOOK | $86.67 | $97.33 |
| PLENTYWOOD | $50,647.33 | $51,355.27 |
| WESTBY | $6,239.99 | $6,289.34 |
| 35 SANDERS CO | $53,568.80 | $56,733.43 |
| HOT SPRINGS | $0.00 | $0.00 |
| PLAINS | $57,564.29 | $69,631.99 |
| THOMPSON FALLS | $44,792.67 | $53,312.00 |
| 36 JUDITH BASIN CO | $9,001.00 | $9,142.04 |
| HOBSON | $5,318.66 | $6,061.33 |
| STANFORD | $5,152.00 | $6,627.33 |
| 37 DANIELS CO | $2,294.73 | $2,214.02 |
| FLAXVILLE | $7,011.99 | $5,606.00 |
| SCOBEY | $48,258.00 | $39,835.00 |
| 38 GLACIER CO | $795.75 | $274.40 |
| BROWNING | $0.00 | $0.00 |
| CUT BANK | $162,884.21 | $179,723.33 |
| 39 FALLON CO | $1,541.97 | $1,631.77 |
| BAKER | $39,668.14 | $52,886.00 |
| PLEVNA | $1,334.66 | $1,930.67 |
| 40 SWEET GRASS CO | $3,970.68 | $4,579.29 |
| BIG TIMBER | $42,828.26 | $42,036.27 |
| 41 MCCONE CO | $1,441.35 | $1,129.78 |

| CITY/COUNTY NAMES | FY 95 | FY 96 |
|---|---|---|
| CIRCLE | $12,818.00 | $10,601.40 |
| 42 CARTER CO | $975.61 | $823.48 |
| EKALAKA | $13,772.67 | $10,839.33 |
| 43 BROADWATER CO | $55,467.40 | $54,121.40 |
| TOWNSEND | $43,773.54 | $47,864.67 |
| 44 WHEATLAND CO | $7,508.67 | $5,674.68 |
| HARLOWTON | $34,253.34 | $36,260.67 |
| JUDITH GAP | $2,171.34 | $2,869.33 |
| 45 PRAIRIE CO | $1,028.84 | $939.46 |
| TERRY | $9,150.67 | $12,322.00 |
| 46 GRANITE CO | $14,523.95 | $16,251.80 |
| DRUMMOND | $12,878.66 | $11,102.36 |
| PHILIPSBURG | $18,388.00 | $26,233.33 |
| 47 MEAGHER CO | $6,479.76 | $7,836.50 |
| WHITE SULPHUR SPR | $33,813.33 | $34,043.33 |
| 48 LIBERTY CO | $1,278.00 | $2,153.67 |
| CHESTER | $19,242.00 | $21,063.34 |
| 49 PARK CO | $103,136.21 | $112,213.91 |
| CLYDE PARK | $7,990.00 | $7,812.00 |
| LIVINGSTON | $224,952.00 | $245,467.00 |
| 50 GARFIELD CO | $1,635.47 | $2,064.70 |
| JORDAN | $6,696.67 | $7,624.67 |
| 51 JEFFERSON CO | $69,349.87 | $59,456.90 |
| BOULDER | $34,608.33 | $37,064.66 |
| WHITEHALL | $50,605.86 | $57,202.00 |
| 52 WIBAUX CO | $5,122.47 | $151.64 |

| CITY/COUNTY NAMES | FY 95 | FY 96 |
|---|---|---|
| WIBAUX | $24,577.83 | $34,119.23 |
| 53 GOLDEN VALLEY CO | $2,278.00 | $2,810.67 |
| LAVINA | $0.00 | $0.00 |
| RYEGATE | $7,815.99 | $8,707.33 |
| 54 MINERAL CO | $178,648.75 | $157,106.75 |
| ALBERTON | $3,414.90 | $10,574.33 |
| SUPERIOR | $65,268.27 | $71,643.88 |
| 55 PETROLEUM CO | $125.00 | $0.00 |
| WINNETT | $5,414.00 | $3,343.33 |
| 56 LINCOLN CO | $258,056.56 | $250,543.90 |
| EUREKA | $30,950.43 | $29,323.34 |
| LIBBY | $207,666.07 | $218,795.76 |
| REXFORD | $8,300.00 | $8,393.34 |
| TROY | $59,413.33 | $61,371.33 |
| TOTAL DISTRIBUTION: FY 95 - $20,879,471.00 | | FY 96 - $21,437,194.23 |

Live bingo and keno taxes. From July 1, 1989, through June 30, 1991, the tax on live bingo and keno was equal to the greater of one percent of the gross proceeds from the game (i.e., gross revenue received minus prizes paid out) or five percent of the net game income (i.e., gross proceeds minus allowable expenses). In 1991, the Legislature eliminated the five percent tax on net income and retained the one percent tax on gross proceeds effective July 1, 1991.

The following groups are exempt from the live bingo and keno tax: nonprofit organizations qualified under 26 U.S.C. 501(c)(3), (4), (8), or (19); long-term care facilities; retirement homes; and senior citizen centers.

Live bingo and keno tax revenues are distributed to the county, city, or town in which the licensed game is located for deposit in the county or municipal treasury.

Table 4.7 shows the live bingo and keno tax revenue collected for fiscal years 1992 through 1996.

**TABLE 4.7**
**Live Bingo and Keno Tax Revenues**
**Fiscal Years 1992 Through 1996**

| FISCAL YEAR | GAME TYPE | NO. OF RETURNS | GROSS PROCEEDS REPORTED | TAX: @1% |
|---|---|---|---|---|
| 1992 | Bingo | 53 | $2,269,708 | $22,697 |
| | Keno | 46 | 1,646,105 | 16,461 |
| | Totals | 99 | $3,915,813 | $39,158 |
| 1993 | Bingo | 49 | $2,110,600 | $21,106 |
| | Keno | 43 | 1,438,100 | 14,381 |
| | Totals | 92 | $3,548,700 | $35,487 |
| 1994 | Bingo | 34 | $1,717,400 | $17,174 |
| | Keno | 40 | 1,355,400 | 13,554 |
| | Totals | 74 | $3,072,800 | $30,728 |
| 1995 | Bingo | 31 | $1,740,900 | $17,409 |
| | Keno | 39 | 1,405,000 | 14,050 |
| | Totals | 70 | $3,145,900 | $31,459 |
| 1996 | Bingo | 31 | $1,605,700 | $16,057 |
| | Keno | 33 | 1,246,000 | 12,460 |
| | Totals | 64 | $2,851,700 | $28,517 |

According to the total gross proceeds reported, the average annual gross proceeds generated per bingo game was $23,710 in fiscal year 1990; the average per keno game was $25,203. These figures increased to $51,797 for bingo and $37,756 for keno in fiscal year 1996.

**Sports tab card tax**. A licensed sports tab card manufacturer who sells sports tabs to a licensed operator must collect from the operator, at the time of sale, a tax of $1 for each 100 sports tabs sold. Within 15 days after the end of each calendar quarter, the manufacturer must submit to the Gambling Control Division the tax revenue collected. The Division retains the tax revenues for administrative purposes. In fiscal year 1992, the Division received $8,642 in tax revenues. In fiscal year 1994 the Division received $2,304 in tax revenues. In fiscal year 1995 the Division received $2,448 and $859 in fiscal year 1996.

## B. Gambling Permit Fees

The Gambling Control Division collects permit fees on the following gambling activities:

- video gambling machines;
- live bingo and keno games;
- live card game tables;
- card game tournaments; and
- casino nights.

The following sections describe the permit fees collected by the Division. A summary of these gambling permits is contained in Appendix B.

**Video gambling machine permit fees**. The annual permit fee for a video gambling machine is $200. Effective July 1, 1991, the fee was prorated on a quarterly basis. One-half of the permit fee is retained by the Gambling Control Division. The remainder is distributed on a quarterly basis to the county, city, or town where each machine is located for deposit in the county or municipal treasury. The table on the following page shows the video gambling machine permit fee revenues collected for fiscal years 1992 through 1996.

## TABLE 4.8
### Video Gambling Machine Permit Fee Revenues
### Fiscal Years 1992 Through 1996

| Fiscal Year | Qtr. | Amount Collected | Amt. to Local Gov't. & Gambling Control Division (each) |
|---|---|---|---|
| 1992 | 1st | $2,350,500 | $1,175,250 |
| | 2nd | 116,850 | 58,425 |
| | 3rd | 96,500 | 48,250 |
| | 4th | 45,400 | 22,700 |
| | Total | $2,609,250 | $1,304,625 |
| 1993 | 1st | $2,633,200 | $1,316,600 |
| | 2nd | 171,450 | 85,725 |
| | 3rd | 101,000 | 50,500 |
| | 4th | 58,700 | 29,350 |
| | Total | $2,964,350 | $1,482,175 |
| 1994 | 1st | $2,796,600 | $1,398,300 |
| | 2nd | 130,500 | 65,250 |
| | 3rd | 99,700 | 49,850 |
| | 4th | 55,950 | 27,975 |
| | Total | $3,082,750 | $1,541,375 |
| 1995 | 1st | $2,981,800 | $1,490,900 |
| | 2nd | 136,150 | 68,075 |
| | 3rd | 87,900 | 43,950 |
| | 4th | 36,150 | 18,075 |
| | Total | $3,242,000 | $1,621,000 |
| 1996 | 1st | $3,088,800 | $1,544,400 |
| | 2nd | 144,450 | 72,225 |
| | 3rd | 103,100 | 51,550 |
| | 4th | 51,450 | 25,725 |
| | Total | $3,387,800 | $1,693,900 |

**Live bingo and keno game permit fees.** Before July 1, 1991, the annual permit fee for conducting a live bingo game, keno game, or both games was $500. The fee was reduced to $250 for permits issued on or after July 1, 1991. Nonprofit organizations qualified under 26 U.S.C. 501(c)(3), (4), (8), or (19) that qualified for the federal exemption on or before January 15, 1989; long-term care facilities; retirement homes; and senior citizen centers are exempt from the permit fee. Nonprofit organizations that qualified for the federal exemption after January 15, 1989, are exempt from one-half of the fee (i.e., $125). The Gambling Control Division retains the fee for administrative purposes. Table 4.9 lists the live bingo and keno fees collected for fiscal years 1992 through 1996.

**TABLE 4.9**
**Live Bingo and Keno Permit Fee Revenues**
**Fiscal Years 1992 Through 1996**

| Fiscal Year | Bingo | Keno | Both | Total |
|---|---|---|---|---|
| 1992 | 12,250 | 11,000 | 1,500 | 27,750 |
| 1993 | 10,750 | 10,000 | 2,500 | 23,250 |
| 1994 | 9,000 | 9,750 | 2,250 | 21,000 |
| 1995 | 8,625 | 8,500 | 1,000 | 18,125 |
| 1996 | 8,625 | 8,500 | 1,250 | 17,875 |

[1] The permit fee was $500 for fiscal years 1990 and 1991 and $250 for fiscal year 1992, 1993, 1994, 1995 and 1996.

**Live card game table permits fees.** The annual permit fee for a live card game is $250 for the first table operating in an establishment and $500 for each additional table. The Gambling Control Division retains $100 of the fee for administrative purposes. The remainder is distributed on a quarterly basis to the county, city, or town where the card game table is located for deposit in the county or municipal treasury. The table on the following page lists the card table permit fees collected for fiscal years 1992 through 1996.

**TABLE 4.10**
**Live Card Game Table Permit Fee Revenues**
**Fiscal Years 1992 Through 1996**

| Fiscal Year | Qtr. | Amount Collected | DISTRIBUTION: Local Gov't. | Gambling Control Division |
|---|---|---|---|---|
| 1992 | 1st | $69,250 | $45,850 | $23,400 |
| | 2nd | 6,500 | 4,300 | 2,200 |
| | 3rd | 4,000 | 2,600 | 1,400 |
| | 4th | 3,500 | 2,050 | 1,450 |
| | Total | $83,250 | $54,800 | $28,450 |
| 1993 | 1st | $70,500 | $46,900 | $23,600 |
| | 2nd | 4,750 | 3,150 | 1,600 |
| | 3rd | 6,500 | 4,500 | 2,000 |
| | 4th | 1,500 | 1,000 | 500 |
| | Total | $83,250 | $55,550 | $27,700 |
| 1994 | 1st | $65,250 | $43,650 | $21,600 |
| | 2nd | 5,750 | 3,650 | 2,100 |
| | 3rd | 5,500 | 3,900 | 1,600 |
| | 4th | 3,000 | 2,000 | 1,000 |
| | Total | $79,500 | $53,200 | $26,300 |
| 1995 | 1st | $66,250 | $44,350 | $21,900 |
| | 2nd | 7,750 | 5,350 | 2,400 |
| | 3rd | 7,750 | 5,450 | 2,300 |
| | 4th | 1,250 | 750 | 500 |
| | Total | $83,000 | $55,900 | $27,100 |
| 1996 | 1st | $64,250 | $42,750 | $21,500 |
| | 2nd | 6,000 | 4,200 | 1,800 |
| | 3rd | 4,750 | 3,150 | 1,600 |
| | 4th | 5,000 | 3,600 | 1,400 |
| | Total | $80,000 | $53,700 | $26,300 |

**Permit fees for occasional gambling activities.** In addition to the annual permit fees addressed above, the Gambling Control Division collects permit fees for card game tournaments and casino nights. The fee for a tournament permit is $10; a casino night permit costs $25. The Division retains the permit fees for administrative purposes.

The Division collected $1,220 in card game tournament permit fees in fiscal year 1995 and $1,400 in fiscal year 1996. In fiscal years 1995 amd 1996 the Division collected $575 and $475 respectively, in permit fees for casino night permits.

### C. Gambling License Fees

The Gambling Control Division charges a processing and/or license fee for issuing the following licenses:

- operator;
- card dealer;
- card room contractor;
- manufacturer, or distributor, or route operator;
- manufacturer of illegal gambling devices;
- sports tab card manufacturer;
- electronic live bingo and keno equipment manufacturer; and
- antique slot machine dealer.

Fees charged for issuing these licenses are retained by the Division to cover expenses incurred in issuing the licenses. A summary of gambling licenses is contained in Appendix C.

**Operator's license fees**. Effective July 1, 1991, the Gambling Control Division began collecting a fee for processing an operator's license application to cover the actual cost of determining whether the applicant qualified for licensure. An applicant is required to pay a deposit on the processing fee when the application is submitted. The deposit is $500 for a partnership or corporation; $400 for a sole proprietorship; and $50 for a nonprofit organization. The Division refunds any overpayment of the processing fee or collects an amount sufficient to reimburse the Division for any underpayment of actual costs. The Division collected $115,191 in processing fees in fiscal year 1995, and $110,395 in fiscal year 1996.

**Card dealer's license fees**. A first-time applicant for a card dealer's license must pay a license fee of $75. Thereafter, a license may be renewed annually for $25. The Gambling Control Division collected $17,815 in card dealer's license fees in fiscal year 1995, and $15,000 in fiscal year 1996.

**Card room contractor's license fees**. Effective July 1, 1991, the Gambling Control Division began issuing card room contractor's licenses. A fee of $150 is charged for the license. The Division collected $3,900 in card room contractor's license fees in fiscal year 1995, and $4,950 in fiscal year 1996.

**Manufacturer's, distributor's and route operator's license fees.** The Gambling Control Division charges $1,000 annually for issuing each of the following licenses: manufacturer's, distributor's, route operator's, manufacturer of illegal gambling devices,[13] sports tab card manufacturer, and electronic live bingo and keno equipment manufacturer. In addition, the applicant must pay a one-time processing fee equal to the actual cost of determining whether the applicant qualifies for licensure. A $1,000 deposit on the processing fee is required at the time of application. The applicant receives a refund of any overpayment of the processing fee or must pay an additional amount to reimburse the Division for any underpayment of actual costs. For these types of licenses, the Division collected $159,443 in licensing and processing fees in fiscal year 1995, and $172,366 in fiscal year 1996.

**Antique slot machine dealer's license.** The cost of an antique slot machine dealer's license is $50 per year. The Gambling Control Division was authorized to begin issuing these licenses on July 1, 1991. No licenses were issued in fiscal years 1991 and 1992. The Division collected $200 in licensing fees in fiscal year 1995, and $150 in fiscal year 1996.

### D. Distribution of Gambling Revenues

As noted in the previous sections, gambling revenues are distributed to three entities: local governments, the gambling control special revenue account; and the state general fund. The table and graph on the following pages provide data on the distribution of taxes, permit fees, and license fees for fiscal year 1996.

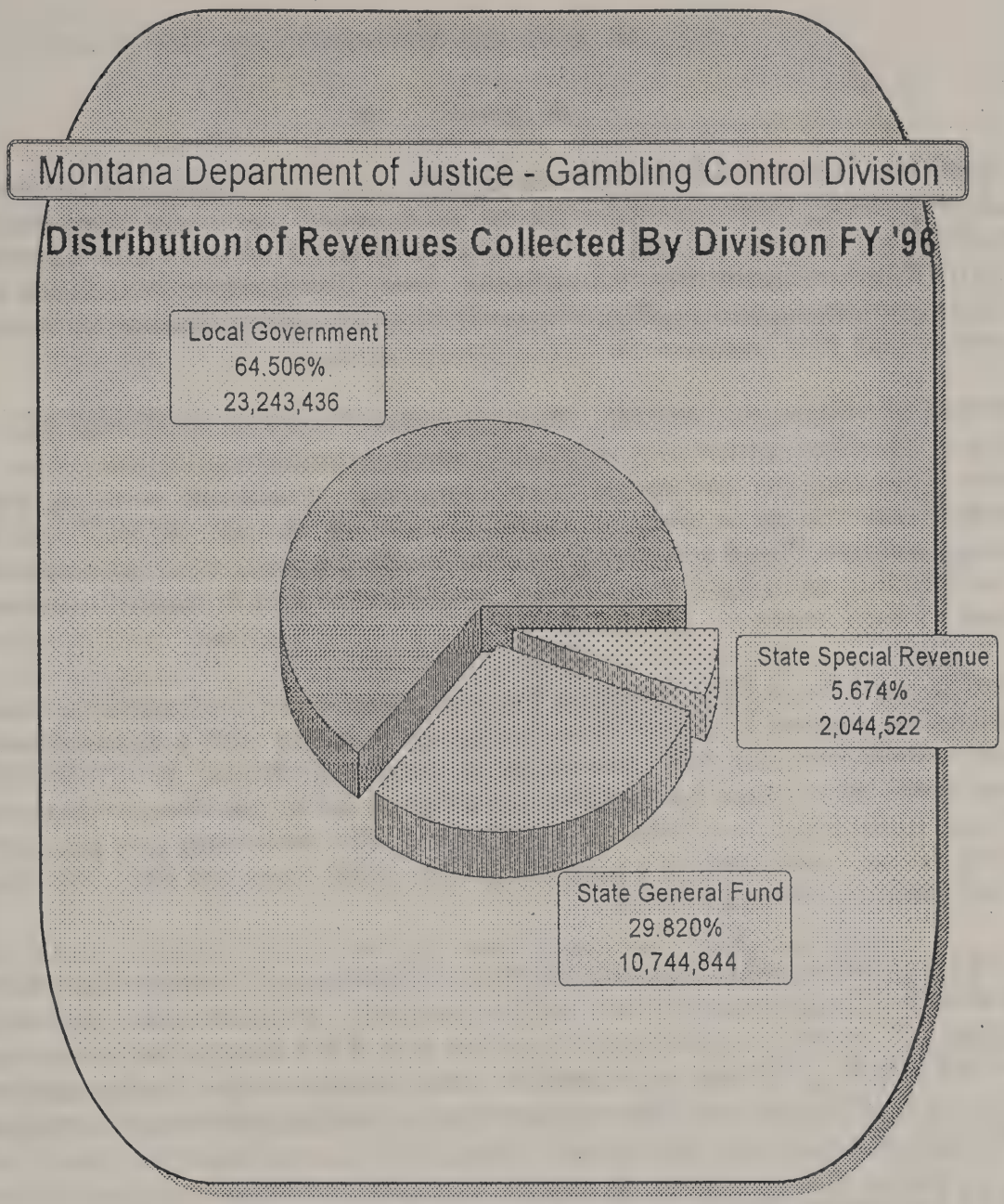
[13] The annual license fee and processing fee for a license to manufacture illegal gambling devices is waived if the applicant has a manufacturer's license.

## TABLE 4.11
## Distribution of Gambling Revenues
## Fiscal Year 1996

| Revenue Source | Total Distributed | Local Gov't. | Gambling Control | General Fund Account |
|---|---|---|---|---|
| VGM* tax | $32,198,923 | $21,437,194 | 0 | $10,761,729 |
| Bingo/keno tax | 28,517 | 28,517 | 0 | 0 |
| Sports tab tax | 0 | 0 | 0 | 0 |
| VGM* permit fees | 3,344,425 | 1,672,213 | 1,672,212 | 0 |
| Bingo/keno permit fees | 17,875 | 0 | 17,875 | 0 |
| Card table permit fees | 80,000 | 53,700 | 26,300 | 0 |
| Casino night permit fees | 450 | 0 | 450 | 0 |
| Antique slot dealer | 150 | 0 | 150 | 0 |
| Operator lic. fees | 112,130 | 0 | 112,130 | 0 |
| Card dealer lic. fees | 15,000 | 0 | 15,000 | 0 |
| Card room contractor fees | 4,950 | 0 | 4,950 | 0 |
| Card Tournament fees | 1,410 | | 1,410 | |
| Manufacturer[1] lic. fees | 171,785 | 0 | 171,785 | 0 |
| Totals | $35,975,615 | $23,191,624 | $2,022,262 | $10,761,729 |

*VGM = Video gambling machine

[1] Includes fees from the following licenses: manufacturer, distributor, route operator, manufacturer of illegal gambling devices, sports tab card manufacturer, and manufacturer of electronic live bingo and keno equipment.




As reflected in the above graph, local governments are the biggest recipient of gambling revenues.

## V. DIVISION ACTIVITIES

### A. Introduction

The Gambling Control Division, as established in July 1989, consisted of two bureaus (i.e., Investigation; Licensing and Tax), an audit program, and an administrative unit. In an effort to improve delivery of services, the Division reorganized in September 1991. The former Licensing and Tax Bureau was divided into two sections, Licensing and Technical Services. The Bureau's tax functions were transferred to the audit program, which then became the Tax and Audit Section.

In addition to reorganizing sections, the Division implemented a regional plan in March 1992, involving field office personnel and licensing staff in the Helena office. The purpose of the regional approach was to form a team who could work together to assist licensees in a given geographic area. The state was divided into three districts: western,[14] eastern,[15] and southern[16]. A revenue field agent, a licensing specialist in Helena, a district investigation supervisor, and three to four investigators were then assigned to each district.

Legislative approval in 1991 for hiring five more staff persons allowed the Division to implement the regional plan. An investigator was hired to staff a field office in Kalispell. Another investigator was added to the Billings office. The Division hired a revenue agent to work out of the Missoula office to serve the western district; another agent was transferred from Helena to Great Falls. The remaining new positions, a gambling device inspector and a data processing clerk, were not filled until fiscal year 1993 for vacancy savings reasons.

The 1993 Legislative session approved the consolidation of Liquor and gambling investigations. Six investigators and two support staff positions were moved from the Department of Revenue to the Division; all but one of the Helena positions was moved out to field offices. Although workload has remained the same, license applicants no longer have to undergo two different investigations and be interviewed by different investigators.

The 1995 Legislative session approved three new positions, two new revenue agents

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[14] The western district consists of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Lewis and Clark, Powell, Jefferson, Granite, Deer Lodge, Silver Bow, and Beaverhead Counties.

[15] The eastern district consists of Glacier, Toole, Liberty, Hill, Blaine, Pondera, Chouteau, Teton, Cascade, Judith Basin, Phillips, Valley, Wibaux, Daniels, Sheridan, Roosevelt, Dawson, Fergus, Petroleum, Garfield, McCone, and Richland Counties.

[16] The southern district consist of Meagher, Broadwater, Wheatland, Madison, Gallatin, Park, Sweet Grass, Golden Valley, Musselshell, Rosebud, Stillwater, Yellowstone, Treasure, Carbon, Big Horn, Prairie, Custer, Fallon, Powder River, and Carter Counties.

(one each in Missoula and Billings), and a gambling device inspector.

### B. Licensing

The Licensing Section, consisting of a section supervisor, three licensing specialists, and an administrative clerk, is responsible for processing and issuing gambling licenses and permits and providing information and assistance to licensees. The Section also collects and distributes license and permit fees and maintains licensee records. The Section's activities during fiscal years 1993 through 1996 are described in Table 5.1.

**TABLE 5.1**
**Licensing Section Activities**
**Fiscal Years 1993 through 1996**

| | FY 1993 | FY 1994 | FY 1995 | FY 1996 |
|---|---|---|---|---|
| Operator, Manufacturer/ Distributor/Rte.Operator Licenses Issued | 1,884 | 1,862 | 1,838 | 1,840 |
| Game Permits Issued | 16,917 | 17,449 | 17,551 | 18,587 |
| Fees Collected | $2,964,350 | $3,082,750 | $3,242,000 | $3,387,800 |

### C. Tax and Audit

The Tax and Audit Section consists of a Section supervisor, two compliance specialists, and four revenue agents. The revenue agents are located in Missoula, Billings, Great Falls, and Helena. The Section assists in licensing applicants by conducting financial background reviews. It is also collects and distributes gambling taxes and conducts office and field tax audits. Another duty of the section is to provide support to the Investigation Bureau in interpreting and analyzing documents seized from suspected illegal gambling activities. Additionally, the Section provides budget management services for the Division. Statistics relating to the Section's activities are provided on the following page.

**TABLE 5.2**
**Tax and Audit Section Activities**
**Fiscal Years 1995 and 1996**

| | FY 95 | FY 96 |
|---|---|---|
| Financial reviews of license renewals | 110 | 111 |
| Financial reviews of new applications | 354 | 302 |
| Taxes collected/distributed (in millions) | $31.3 | $32.2 |
| Desk audits conducted | 3,451 | 2,137 |
| Field audits conducted | 13 | 5 |

In fiscal years 1995 and 1996, office-based audits resulted in the assessment of $747,384 including tax and penalties. During this same period, the Section assessed $71,548 in additional taxes and penalties as a result of field audits.

### D. Technical Services

The Technical Services Section consists of a Section Supervisor, an Information Systems Specialist, an Information System Tech, a Gaming Machine Tester and two Gambling Machine Inspectors. The second inspector position was one of the three FTE authorized by the 1995 legislature; it was not filled until March, 1996 for vacancy savings purposes.

All Technical Services personnel are based in Helena with the exception of the Gambling Machine Inspectors; one is based in Billings and the other in Missoula. The Technical Services Section serves as the primary technical resource for the Gambling Control Division. Major responsibilities include data processing and gambling machine testing.

Data processing services are provided for 57 users in both the Gambling and Liquor Divisions on 10 local area networks (LANS) located throughout the state. All services provided for the Department of Revenue, Liquor Division are negotiated annually through a Memorandum of Understanding(MOU). The UNIX and Novell LANS communicate via dedicated lines, gateways and modems to form a statewide wide area network(WAN). The WAN provides word processing, electronic mail, spreadsheet and Gambling Control Division and liquor database access for all users.

Gambling machine testing and verification is performed on both prototype models and modifications to approved models. Gambling machine testing is performed for

Montana and under contract for Reservations and other State governments. Compliance verification, testing and approval of gambling machines and modifications is completed prior to their duplicates being manufactured, sold, licensed and operated in the state. Gambling machine manufacturers are assessed hourly charges for testing gambling machines and modifications; these charges are assessed at a rate to cover the actual costs of testing. In FY95, the Section tested 4 new models and 154 modifications to approved models. 4 new models and 180 modifications to approved models were tested in FY96. On an average, it takes 82 days for the Section to test a new gambling machine. Cosmetic modifications are approved on a next-day basis.

Related areas of responsibility include: Performing gambling machine inspections; processing and tracking the ownership/sale/purchase of gambling machines; processing and tracking gambling machine problems/service; evaluation/testing of gambling machine evidence and related items for the Gambling Investigations Bureau; evaluation of promotional devices for compliance; and providing statistical reports related to the regulation of gambling.

Presently, gambling machine inspections are performed randomly and in response to complaints from the public. In FY95, 1701 machines were inspected and 1061correction notices were issued. In FY96, 2394 machines were inspected and 2024 correction notices were issued. The Division will continue with random inspections until such time each operator has had at least one machine inspected in their establishment. At that time, gambling machine inspections will be targeted based on past gambling machine service, previous inspection corrections and chronic machine failures; these will be grouped by Operator, Route Operator, or gambling machine make and model. Targeted gambling machine inspections are one of the recommendations of the performance audit conducted in 1994 by Legislative Auditors.

Any repair performed on a licensed gambling machine, which may cause a loss of memory or change in the meter reading, must be reported to the Gambling Control Division on a Video Gambling Machine Service Form. Service Form information is compiled in a database and used as a reference for the Tax and Audit Section while conducting machine audits; the data is also used to document chronic machine failures/service. In FY95, the Division processed 10,643 Service Forms; in FY96, the Division processed 12,502 Service Forms.

## E. Investigations

**GAMBLING:**

Before a gambling license is issued, the Investigation Bureau conducts a criminal background check on the applicant and conducts a thorough investigation of the application and individuals or entities wishing a gambling license. The Bureau conducts criminal investigations of alleged violations of state gambling statutes and

administrative rules on all licensees residing in the state and of licensed entities outside the state doing business in Montana.

The Bureau also conducts routine inspections of licensed establishments as well as inspecting proposed gambling establishments. Other Bureau duties include evaluating variations of legal gambling activities submitted for approval and providing local law enforcement training. Presently, four Bureau employees work in the Helena office: a Bureau Chief, administrative assistant, and two administrative support positions. An additional administrative support position is located in the Billings district office. Seventeen investigators are assigned to nine field offices; the field offices are organized into three districts, each of which is managed by a district supervisor.

**LIQUOR:**

In addition to the gambling duties of the Bureau, it is now responsible for conducting liquor licensing investigations and reporting back to the Liquor Control Division on the suitability of the applicant.

The field offices are located in Kalispell, Missoula, Butte, Glasgow, Great Falls, Billings, Miles City, and Bozeman.

**TABLE 5.3**
**Investigation Bureau Activities**
**Fiscal Years 1993 through 1996**

| | FY 1993 | FY 1994 | FY 1995 | FY 1996 |
|---|---|---|---|---|
| License investigations conducted: | | | | |
| Liquor: * | 340 | 363 | 440 | 434 |
| Gambling: * | 298 | 223 | 297 | 297 |
| Mfg/Dist/Rte Operators: | 35 | 16 | 21 | 23 |
| Card Room Contractors: | 17 | 11 | 15 | 24 |
| Dealers: | 414 | 270 | 400 | 365 |
| Licensee criminal background investigations conducted: | | | | |
| Liquor: * | 853 | 589 | 853 | 874 |
| Gambling: * | 1,631 | 1,277 | 1969 | 2025 |
| Premises inspections conducted | 561 | 429 | 438 | 457 |
| Video gambling machines inspected | 343 | 52 | 47 | |
| Civil correction notices issued | 146 | 128 | 136 | 85 |
| Civil violation notices issued | 62 | 30 | 34 | 28 |
| Criminal investigations conducted | 368 | 237 | 383 | 406 |

*There could be duplicates among these two categories.

## F. Administration

The administrative unit, which consists of the Division administrator, two staff attorneys, administrative officer, administrative secretary, and receptionist, manages the over-all operations of the Division.

During the biennium, the administrative unit began a major revision of administrative rules. In addition, the Administrator and Administrative Officer conducted numerous workshops and presentations to industry representatives on promotional games, credit gambling/check cashing, automated accounting and reporting systems, and the proposed rule changes.

The unit also works closely with the Gaming Advisory Council, a nine-member policy group established by law to study all aspects of gambling in Montana. The unit represented the Division at Council meetings and provided staff services to the Council.

Another major duty assigned to the unit is to initiate administrative action against licensees for violations of the gambling laws and rules and to represent the Division in administrative proceedings. See Appendix D for enforcement statistics.
Also during the biennium, the administrative unit continued to be actively involved with state-tribal gaming compact negotiations. The Indian Gaming Regulatory Act (IGRA), enacted by Congress in 1988, directs the state, upon request of a tribe, to enter into negotiations on the conduct of Class III gaming on the tribe's reservation. Class III gaming, as defined under IGRA, includes games such as live keno, video gambling machines, lottery, and horse racing. The information below provides the status of compact negotiations:

**EXISTING MONTANA CLASS III COMPACTS:**

Assiniboine & Sioux Tribes
Fort Peck Council

Crow Tribe
Crow Tribal Council

Chippewa-Cree Tribe
Chippewa Cree Tribal Council

Northern Cheyenne Tribe
Northern Cheyenne Tribal Council

Blackfeet Tribe
Blackfeet Tribal Business Council

**NO COMPACT:**

Salish & Kootenai Tribes
Confederated Salish & Kootenai Tribes

Gross Ventre & Assiniboine Tribes
Fort Belknap Community Council

The State has negotiated for types of games that are legal in the state. With regard to conditions of play, the State has allowed $1,000 payouts for video gambling machines and up to 100 video gambling machines depending on site-specific circumstances to be placed in each premises. In the absence of a compact, Class III gaming cannot be conducted on a reservation.

## APPENDIX A

## GAMBLING TAXES

| TYPE | AMOUNT | DISTRIBUTION | STATUTORY CITE (MCA) |
|---|---|---|---|
| Live Bingo/ Keno | 1% of gross proceeds (pd. annually)[1] | 100% to local governments | 23-5-409,MCA |
| Video Gambling Machine | 15% of gross machine income (pd. quarterly) | 33 1/3% to state general fund and 66 2/3% to local governments | 23-5-610,MCA |
| Sports Tab Cards | $1/sports tab card (pd. annually) | 100% retained by Dept. of Justice | 23-5-502,MCA |

[1]An organization qualified for exemption under 26 U.S.C. 501(c)(3), (c)(4), (c)(8), or (c)(19) or a senior citizen center, retirement home, or nursing home is exempt from the live bingo/keno tax (23-5-406 and 410, MCA).

## APPENDIX B

## GAMBLING PERMITS

| TYPE | COST | DISTRIBUTION | STATUTORY CITE (MCA) |
|---|---|---|---|
| Live Card Game Table | $250/yr for 1st table<br>$500/yr for each add'l table[1] | $100/table retained by Dept. of Justice with remainder to local governments | 23-5-306,MCA |
| Live Bingo/ Keno | $250/yr for each premises[2] | 100% retained by Dept. of Justice | 23-5-407,MCA |
| Video Gambling Machine | $200/yr for each machine | 50% retained by Dept. of Justice with remainder to local governments | 23-5-612,MCA |
| Live Card Game Tournament | $10/tournament | 100% retained by Dept. of Justice | 23-5-317,MCA |
| Casino Night | $25/casino night | Same as above | 23-5-705,MCA |

[1]A senior citizen center is exempt from the live card game table fee. (23-5-310, MCA)

[2]An organization qualified for exemption under 26 U.S.C. 501(c)(3), (c)(4), (c)(8), or (c)(19) on 01/15/89 or a senior citizen center, retirement home, or nursing home is exempt from the live bingo/keno permit fee. A 26 U.S.C. 501(c)(3), (c)(4), (c)(8), or (c)(19) organization qualified for federal exemption after 01/15/89 is exempt from one-half the permit fee. (23-5-406 and 410, MCA)

## APPENDIX C

## GAMBLING LICENSES

| TYPE | COST | DISTRIBUTION | STATUTORY CITE (MCA) |
|---|---|---|---|
| Operator | One-time application fee commensurate with processing costs | 100% retained by Dept. of Justice | 23-5-177,MCA |
| Card Dealer | $75 1st year[1]<br>$25 to renew | Same as above | 23-5-308,MCA |
| Card Room Contractor | $150/yr | Same as above | 23-5-324,MCA |
| Manufacturer, Distributor, or Route Operator | One-time application fee commensurate with processing costs plus $1,000/yr license fee | Same as above | 23-5-625,MCA<br>23-5-128,MCA<br>23-5-129,MCA |
| Manufacturer of Gambling Devices Not Authorized in Montana | Same as above[2] | Same as above | 23-5-152,MCA |
| Electronic Live Bingo/Keno Equipment Manufacturer | Same as above | Same as above | 23-5-424,MCA |
| Sports Tab Card Manufacturer | Same as above | Same as above | 23-5-115,502<br>503, MCA |

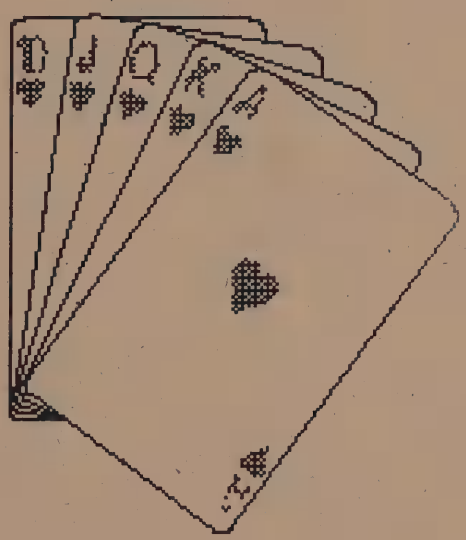
[1]No fee is charged for a 90-day temporary card dealer license. (23-5-308, MCA)

[2]No application processing fee or license fee is charged if the manufacturer-distributor is licensed as a manufacturer-distributor under 23-5-625, MCA. (ARM 23.16.2001)

# REPORT OF THE

# 1995 - 1996

# GAMING ADVISORY COUNCIL



*January 1997*

*Chair, Senator Sharon Estrada,*
*Jean Agather, Joe Plumage, Clint Lohman, Steve Arntzen, Larry Epstein,*
*Joan Bennett, Rep. Rose Forbes, Darrell Keck*

## I. INTRODUCTION

In 1989, the Montana Legislature adopted Senate Bill No. 431, a comprehensive revision of the state's gambling laws. Senate Bill No. 431 centralized regulation and control of all gambling activities, except for the lottery and horse racing, under the Department of Justice. The bill also provided for appointment of the Gaming Advisory Council.

The statutory duties assigned to the Council were multi-fold: to hold meetings and incur necessary expenses to study all aspects of gambling in Montana; to review and comment on administrative rules proposed by the Department; and to submit an annual report to the Department of Justice and the Legislature with recommendations regarding the state's gambling laws and the Department's administrative rules and operations.

The Gaming Advisory Council consists of nine members: one member each from the Senate and House of Representatives, one public member, two local government representatives, one Native American representative, and three gaming industry representatives. The Senate Committee on Committees and the Speaker of the House appoint the legislators to the Council, while the remaining members are selected by the Attorney General. Each member serves a three-year term.

During the 1995-1996 Biennium, the legislative appointees to the Council were Senator Bob Pipinich (Missoula) and Representative Royal Johnson (Billings). In FY 96 they were replaced by Senator Sharon Estrada (Billings) and Representative Rose Forbes (Great Falls). The Legislators were joined in fiscal year 1995 by the public member, Jean Agather (Kalispell); local government representatives, County Attorney Larry Epstein, (Cutbank) and City Commissioner Joan Bennett (Great Falls); Native American representative, Joe Plumage (Billings); and gambling industry members, Steve Arntzen (Billings), Darrell Keck (Shelby), and Clint Lohman (Glendive).

The remainder of this report reviews the Gaming Advisory Council's deliberations and activities and presents the Council's recommendations.

Additional information on the work of the Council, including staff reports, is available through the Gambling Control Division, 2550 Prospect Ave, Helena, Montana 59620.

## II. COUNCIL DELIBERATIONS AND ACTIVITIES

The Gaming Advisory Council began its work for the 1995 - 1996 biennium in June 1995 and adopted its final recommendations in November 1996. During this period, members met 7 times. Meetings were held in the conference room of the Gambling Control Division and the State Capitol building, rm 325.

This chapter provides a brief overview of the Council's deliberations and actions during the 1995 - 1996 biennium. A general account of each meeting is contained in the meeting minutes and a detailed record is available on tape both of which are on file with the Gambling Control Division.

### Meeting #1: June 29, 1995 (Capitol rm 108)

During the Council's first meeting, staff from the Gambling Control Division reviewed the 1995 legislative activity, including a bill to authorize a dial-up accounting and reporting system and a bill for a compulsive gambling treatment program. Both bills failed to pass. A bill to increase the payout on video poker machines to $800 passed, as well as a bill designed to prevent the "stacking" of gambling and liquor licenses.

Attorney General Joe Mazurek welcomed Senator Sharon Estrada and Representative Rose Forbes to the Council. The new legislators replaced Senator Pipinich and Representative Royal Johnson who were not reappointed.

The Council thanked John Blair for his work on the Council and appointed him to chair the subcommittee on compulsive gambling. The sub-committee is to meet the day before the Council and bring industry, public and counselors representatives together to try to reach a compromise on a treatment program before the next legislature.

Janet Jessup, Administrator, reported on the "pilot program" which was begun in Missoula to address the length of time it takes the Division to process license applications with the goal of streamlining the application process. She reported that the Division continues to receive a record number of gambling operator license applications every year. The Division installed a new database for use by the Liquor Division in their renewal process. Wilbur Rehmann reported on workshops about gift enterprises and promotions that were conducted around the state. He said the Division is trying to use education instead of violations to solve the problems.

**Meeting #2: September 6-7 1995 (GCD conf.rm.)**

Senator Sharon Estrada, R-Billings, was elected chair of the Council. GCD staff from Licensing, Tax and Audit, Investigations and Technical Services gave presentations on their duties and responsibilities and tours of the office facilities.

Administrator Janet Jessup gave an overview of negotiations with various Montana tribes on gaming and updated the Council on which tribes had compacts with the state. She reported on Division activities and presented a survey of video gambling in nearby states.

The Council discussed the Divisions confidentiality requirements and thought that the Division should review the requirements with a look at easing them where possible.

The Compulsive Gambling Sub-committee reported on their first meeting and discussions.

The Council agreed to invite manufacturers of electronic reporting and accounting systems (dial-up) to make presentations on their hardware and software at the January council meeting.

**Meeting #3: January 17-18, 1996 (Capitol rm 325)**

The Council welcomed four manufacturers of dial-up systems to make presentations, Gtech, Video Lottery Consultants (VLC), International Game Technology (IGT), and Metretek. The demonstrations by the manufacturers helped the council, members of the industry and public to better understand the technology available.

The Council requested the Division to look at Internet gambling and its' implications for Montana.

Rep. Bruce Simon requested the Council consider funding for sending two legislators to the National Council of Legislators from States with Legalized Gambling. They agreed to discuss this idea further at the next meeting.

Mr. Arntzen was appointed chair of a subcommittee to review the concept of a Gaming Commission compared to Nevada and Washington.

The Council requested the Division to evaluate the four manufacturers presentations to see if they would resolve the concerns identified in the Legislative Audit.

Rich Miller, GIA, submitted a Flat Fee proposal to replace the existing 15% tax on video gambling machines. Tim O'Dell of Joseph Eve and Co. reported that he had reviewed the audit conducted by the Legislative Auditor's office and that it had been done following professional accounting standards and practice. He commended the Auditor's office on the quality of work but had some concerns with some of the conclusions. He felt that since many of the errors were math errors that money spent on education and accounting software would be an alternative to spending money on dial-up.

Janet Jessup, Administrator, reported on Division activities and gave an update on Indian gaming.

**Meeting #4: March 21, 1996 (Capitol rm 325)**

The Council heard a report from Steve Arntzen on Gaming Commissions, that recommended the Council not pursue the issue further. The Council decided not to pursue the issue.

Received a report from Wilbur Rehmann, Administrative Officer on Internet Gaming. He reported that gambling on the Internet was surprisingly easy and simple and that the Division would continue to monitor other states policy initiatives. Generally, the Division considered gambling on the Internet as an illegal gambling activity.

Received a report from Larry Akey of the Compulsive Gambling Subcommittee that the discussions were progressing and that an agreement would likely be reached at the next meeting. In addition, the subcommittee agreed to gather information on sources of funding for a compulsive gambling treatment program.

Janet Jessup reported on Division activities since the last meeting including meetings with local casino and tavern owners. She also submitted the Division's evaluation of the four manufacturers electronic accounting and reporting systems. The Division

established minimum criteria that any system must meet in order to respond to the concerns and problems identified in the Legislative Audit. Three manufacturers systems were able to meet the criteria and resolve the issues in the audit.

Received concerns and comments from Montana Independent Machine Operators Assn. representative Dave Brown about industry problems with Division policy, rules and interpretations. Janet Jessup and Division staff responded to the questions raised.

**Meeting #5: June 20-21, 1996 (Capitol rm 325)**

Received a report from the Darryl Bruno, Chair of the Subcommittee on Compulsive Gambling. Mr. Bruno presented a proposed legislative bill setting up a compulsive gambling treatment program. The bill was supported unanimously by members of the subcommittee and they recommended that the GAC introduce the bill in the next legislative session. The Council voted unanimously to support the proposed bill and requested Rep. Rose Forbes introduce it in the House and Senator Sharon Estrada introduce it in the Senate.

Dennis Taylor, Deputy Director, reported that the Attorney General had requested from the Governor's Budget office, an increase in budget for six meetings of the Council a year. He also said that the Attorney General was waiting for a recommendation from the Council on responding to the Office of Legislative Auditor report on video gambling machine tax collection. The Attorney General also extended the term of Mr. Keck and Ms. Agather one year and reappointed Mr. Plumage to a three year term.

Janet Jessup, Administrator, reported on tribal negotiations and said that a class III compact was very close to being completed with the Blackfeet Tribe. Negotiations with the Confederated Salish and Kootenai Tribes was not moving very quickly and settlement was not anticipated in the near future.

Wilbur Rehmann, Administrative Officer, presented a proposed new rule covering promotional games of chance. The rule was based on negotiations with industry representatives to resolve ongoing problems concerning promotions. In addition, Mr. Rehmann presented a comprehensive list of proposed rules changes and said that the Division would begin an informal comment period before the formal publishing and public review process began. He also discussed proposed changes in credit gambling rules.

Randy Reger presented a proposal for video poker/keno tournaments to the Council which would allow a licensee to hold 52 tournaments a year. The Council discussed the proposal but took no action.

Rich Miller presented a position paper on electronic reporting of tax information.

Janet Jessup then addressed questions from the Council concerning the privatized contract audits that the Division was undertaking. She reported that $200,000 was budgeted for the audits and that the Division hoped to reduce the backlog of audits by 35. A Request for Proposal had been issued by the Division and six accounting firms had responded. She would be making a final decision on which firm would get the contract soon.

**Meeting #6: August 27, 1996 (Capitol rm 325)**

Janet Jessup, Administrator reported that three Division staff positions had been filled with two revenue agents and one technical services/computer support position. In regard to Indian gaming, the Blackfeet Tribe has signed a class III compact with the state.

Ms. Jessup explained that two contractors had been hired to conduct audits, Joseph Eve and Associates and Jack Stevens and Associates, both of Great Falls. She said that both contractors were in the field conducting field interviews. Their activities would be monitored by the Division. Council members questioned where the money came from to pay for the audits. Ms. Jessup explained that the Department of Justice had overall budget authority for different Divisions. The Gambling Control Division had money but no budget authority to spend it. The Department was able to shift budget authority from one of the other Divisions to allow Gambling Control Division to spend the money to hire contractors. Ms. Jessup explained that the contractors were hired because there was a backlog of audits that the Division was unable to complete because more of the Revenue Agents time had been shifted to licensing.

Wilbur Rehmann, Administrative Officer, then proceeded to review and explain all of the proposed rules changes. He said the Division was soliciting comments on the proposals on an informal basis until mid-September when the proposal would be finalized and presented formally to the Secretary of State. A formal public hearing on the proposed rules change would likely be held in late October and final adoption of the proposed

rules would likely be in December or early January.

Attorney General Joe Mazurek addressed the Council and reported on Department activities and the need to conduct the contract audits to clear up the backlog. He mentioned that he was disappointed that the Council had not made any recommendation to him on automated accounting and reporting. In lieu of a recommendation, he had begun informal discussions with gambling industry representatives to try to reach a compromise that was acceptable to the industry but would also resolve the problems identified by the Legislative Auditor.

Chair Sharon Estrada then called on the Council to address a number of issues that had been brought before it in the past year. The Council passed the following resolutions:

1. Encourage the Department of Justice and industry representatives to work together to develop an acceptable system of automated accounting and reporting.

2. Request the Division to revise machine permit pick-up procedures to allow licensees to pick up permits as early as possible during the day.

3. The Council will submit a bill to the Legislature similar to one passed in the last session allowing for temporary authority to be granted for gambling licenses.

**Meeting #7: December 10, 1996 (Capitol rm 325)**

Mr. Darryl Bruno, Department of Public Health and Human Services summarized the preceding days meeting of the Compulsive Gambling Subcommittee. Mr. Bruno said that the executive budget request was reduced but the Subcommittee unanimously supported the proposed budget as a first significant step in getting a treatment program established in the state of Montana.

The gambling treatment bill, as written, had the support various groups, from people in the industry, legislators, counselors, and people who were involved in receiving the funding. The proposed bill, which was worked out to the satisfaction of everyone, had limited opposition by one group of counselors. After discussion by everyone the subcommittee unanimously supports the bill as written and recommends to the Gambling Advisory Council to support both the gambling bill as written and the level of funding in the executive budget, $100,000 first year and $200,000 every year thereafter. The Council voted unanimously to accept the recommendation of the subcommittee to support

the bill as written with the projected funding levels.

Janet Jessup, Administrator, Gambling Control Division, addressed the Council and gave a brief report onthe contract audits. 27 have been assigned to date and of those, 14 were completed and 6 have been reviewed by the Gambling Control Division. Ms. Jessup stated that by the end of the program the Division hoped to have at least 32 to 35 contracted before the end of the contract program and we would evaluate their effectiveness at that time.

Ms. Jessup gave the Council a copy of a policy outlining the procedures to be used to amend licenses to reflect the gifting of stock for estate planning purposes. Ms. Jessup explained that this is an addendum to the accelerated amended license process.

Ms. Jessup also reviewed the revised operator application form. She stated that the Division has been in the process of updating the form for quite some time. She explained that there are several reasons for the revisions, first, the Division is trying to capture more information up front so that there will be less interruption in the licensing process. The Division would also like to reflect the changes in statute, particularly the liquor license "stacking" statute.

Ms. Jessup gave an update on Indian Gaming. She stated that the Governor had sent a letter to the Confederated Salish and Kootenai Tribes about their ongoing discussions but no response yet. She also had recently met with members of the Crow Tribal Gaming Commission in Billings to discuss the current compact and these discussions will continue. Ms. Jessup, reporting on some of the activity in Washington, D.C. said that the Secretary of The Interior is seeking comments on whether he has the authority to approve class III gaming absent state tribal compacts.

Joe Mazurek, Attorney General, reported on the on going discussions regarding automated accounting and reporting systems (AARS). Mr. Mazurek told the Council that a lot of time had been spent on the discussions and he told the Council that he is optimistic that everything can come together because of the incredible commitment shown by all of the parties involved, and hoped that this issue could be resolved in the very near future.

Mr. Dennis Casey, Executive Director, Gaming Industry Association, and Dave Brown, Montana Independent Machine Operators Association, both commended the Attorney General for the continued effort and time put into the discussions. However, they both expressed their concern about a couple of stumbling blocks which may or may not effect

the negotiations. Mr. Larry Akey, Montana Coin Machine Operators Association, told the Council that he too wanted to thank the Attorney General and his staff for the time and effort they have put into the discussions. Mr. Akey said that he hoped everyone involved would not give up on the discussions and continue forward in the process. Mr. Akey said that he was pledged on behalf of his association to continue the discussions in hopes that they can arrive at a consensus that will meet the needs of the department, the people involved in the gaming industry, and the needs of the public in insuring the integrity and security of the tax collecting process. Ellen Engstedt, Don't Gamble With The Future, told the Council that her organization would like to thank the Attorney General and the Department for the time and effort put into this. Ms. Engstedt expressed her organizations concerns, saying they do realize that there does need to be some kind of automated accounting system and that they are going to continue with the discussions as long as need be.

Councilmember Rose Forbes said that she thought it was time the Council took a position on dial-up. She made a motion to oppose dial-up as it was presented last legislative session. The motion was defeated, with five against and three for, with one Council member absent. The roll call vote was: Jean Agather - no, Joan Bennett - no, Joe Plumage - no, Rose Forbes - yes, Clint Lohman - no, Steve Arntzen - no, Darrell Keck - yes, Chair Estrada - yes

Also Mr. Keck requested that the bill that passed last legislative session on temporary authority also be included.

**III. Legislative Recommendations:**

**- Compulsive Gambling Bill**

BY REQUEST OF THE GAMING ADVISORY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DEVELOP AND ADMINISTER A PROBLEM AND PATHOLOGICAL GAMBLING TREATMENT AND PREVENTION PROGRAM; DEFINING SERVICES TO BE PROVIDED BY THE PROGRAM; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE."

**STATEMENT OF INTENT**

A statement of intent is required for this bill because this section authorizes the department of public health and human services to adopt rules necessary to administer the problem and pathological gambling treatment and prevention program. The legislature intends that the rules address but not be limited to the following:

(1)procedures for reimbursing public, community-based agencies and private organizations for providing treatment services to pathological gamblers and intervention services to person(s) adversary affected by gambling;

(2)criteria for selecting agencies or organizations to be eligible for reimbursement for providing treatment services;

(3)records to be maintained by agencies and organizations receiving reimbursement;

(4)criteria for evaluating services provided by agencies and organizations;

(5)criteria for determining the persons eligible to receive treatment and rehabilitation for pathological gambling, including an independent evaluation required for inpatient admissions, and the provision of treatment and rehabilitation services based upon ability to pay;

(6)the credentials, education, training, and requirements of persons providing treatment and rehabilitation services for persons suffering from pathological gambling; and

(7) evaluate the effectiveness of the services provided.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA

NEW **SECTION. Section 1.Design and implementation of problem and pathological gambling treatment and prevention program. (1)** The department of public health and human services shall design and develop a pathological gambling treatment program. The purpose of the program is to provide for the prevention and treatment of problem and pathological gambling in Montana. In designing and developing the program, the department shall:

(a)develop a statewide plan to address the problem of pathological gambling;

(b)adopt rules necessary to administer the program; and

(c)develop priorities for funding services and develop criteria for distributing program funds including required qualifications or certification of counselors providing services.

(2)The department shall implement and administer the program for problem and pathological gambling. In administering the program, the department shall:

(a)make services available as provided for in (section

(b)monitor expenditure of funds by agencies and organizations receiving program funding; and

(c)evaluate the effectiveness of services provided through the program.

**NEW SECTION. Section 2.Problem and pathological gambling treatment and** prevention program services. (1) The department shall make available to pathological gamblers and their immediate families a range of treatment services, including outpatient services, intensive outpatient services, aftercare services, and inpatient services to those persons requiring specialized care. (2) In addition to the services required under subsection (1), the department shall:

(a)provide prevention and educational services to the general public; and

(b)provide a toll-free telephone service for crisis intervention and referral of pathological gambler to problem gambling counselors.

(c)the department may contract with certified gambling counselors and public or community-based agencies and private organizations to provide the services described in subsections (1) and (2).

(d)provide a biennial report to the Gaming Advisory Council and the Montana Legislature.

**NEW SECTION. Section 3. Definitions as used in sections_____through_____)**

**Unless the context requires otherwise the following definition apply.**

(1)"Certified Problem Gambling Counselor" means a person certified as a gambling counselor by a nationally recognized certification council or board.

(2)"Gaming Advisory Council" means the gaming advisory council created by 2-15-2021.

(3)"Pathological Gambling" means an impulse control disorder that meets the diagnostic criteria set forth in the diagnostic and statistical manual version 4 of the American PsychiatricAssociation.

(4)"Problem Gambling" means patterns of gambling related behavior that compromise, disrupt, or damage personal, family, and vocational pursuits. The term includes pathological gambling and excessive gambling.

(5)"Problem Gambling Prevention Programs" mean programs designed to reduce the prevalence of problem and pathological gambling among Montana residents. Strategies include educational services for the general public and early intervention services for people who may be experiencing gambling related problems.

NEW SECTION. Section 4. Effective date. (This act) is effective July 1, 1997.

**- Temporary Authority Bill (from 53rd Legislature)**

SENATE BILL NO. 51

INTRODUCED BY_____

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN APPLICANT FOR A GAMBLING OPERATOR'S LICENSE MAY BE GRANTED TEMPORARY OPERATING AUTHORITY, PENDING THE DEPARTMENT OF JUSTICE'S DECISION ON THE APPLICATION FOR A PERMANENT LICENSE; PROVIDING FOR A COMPLETENESS REVIEW; AMENDING SECTIONS 23-5-112 AND 23-5-177, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. SECTION I. PURPOSE. THE LEGISLATURE FINDS THAT IT IS IN THE PUBLIC INTEREST TO FACILITATE THE ORDERLY AND TIMELY TRANSFER OF OWNERSHIP INTERESTS IN LICENSED GAMBLING ESTABLISHMENTS TO NEW

QUALIFIED OWNERS. THE UNWARRANTED CESSATION OF BUSINESS IN A GAMBLING ESTABLISHMENT PENDING THE GRANT LICENSE MAY RESULT IN ECONOMIC HARDSHIP. TO THE BUYER, SELLER, OR EMPLOYEES OF THE ESTABLISHMENT AND THE LOSS OF GAMBLING TAX REVENUE TO LOCAL GOVERNMENT ENTITIES.

SECTION 2. SECTION 23-5-112, MCA, IS AMENDED TO READ:

23-5-112. Definitions. unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application' means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) 'Authorized equipment' means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) 'Bingo' means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the Columns. No more than 75 numbers may be used. one number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.

(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6) "Card game table" or 'table' means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(7) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(9) 'Department" means the department of justice.

(10) 'Distributor' means a person who:

(a) purchases or obtains from another person equipment of any kind for use in gambling activities; and

(b) sells, leases, or otherwise furnishes the equipment to another person for use in public.

(11) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not mean conducting or participating in a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1.

(12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(14) 'Gross proceeds" means gross revenue received less prizes paid out.

(15) 'Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department. The term includes:

(a) a ticket Or card, by whatever name known, containing concealed numbers or symbols that may match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip board, pickle ticket, break-open, or jar game, except for one used under chapter 7 or under part 5 of this chapter or in a promotional game of chance approved by the department; and

(b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, or craps table or a slot machine except as provided in 23-5-153.

(16) "Illegal gambling enterprise' means a gambling enterprise that violates or is not specifically authorized by a statute or a rule of the department. The term includes:

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) a dice game, by whatever name known, in which a participant wagers on

the outcome of the roll of one or more dice, includes craps, hazard, or chuck-a-luck, but does not include an activity in which a participant rolls one or more dice for a chance to obtain a drink or music; and

(c) sports betting, by whatever name known, in which a person places a wager on the outcome of an athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities authorized in chapter 4 of this title and parts 2 and 5 of this chapter.

(17) 'Keno' means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between I and 80, inclusive.

(18) 'Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(19) "License' means an operator's, dealer's, or manufacturer-distributor's license issued to a person by the department.

(20) "Licensee' means a person who has received a license from the department.

(21) 'Live card game' or 'card game" means a card game that is played in public between persons on the premises of a licensed gambling operator or in a senior citizen center.

(22) "Lottery" or 'gift enterprise' means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

(a) lotteries authorized under chapter 7; or

(b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos.

(23) "Manufacturer' means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

(24) 'Nonprofit organization' means a nonprofit corporation or nonprofit charitable, religious, scholastic,educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity.

(25) 'Operator' means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

(26) 'Permit' means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(27) 'Person' or 'persons' means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(28) 'Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(29) 'Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it.

(30) 'Public gambling' means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; of

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(31) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(32) 'Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of family services.

(33) 'Slot machine' means a mechanical, electrical, electronic, or other gambling device, contrivance, or is a machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is

available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

(34) "Temporary operating authority" means the permission that may be granted to an applicant to operate a gambling establishment if the applicant has submitted a completed application for a permanent gambling license. The permission may be granted, denied, or revoked by the department without notice or opportunity for hearing, provided that the department gives notice and an opportunity for hearing prior to a final determination on the application. Temporary operating authority does not constitute a gambling license.

(35) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department.

NEW SECTION. SECTION 3. TEMPORARY OPERATING AUTHORITY.
(1) THE DEPARTMENT MAY GRANT AN APPLICANT FOR A GAMING OPERATOR'S LICENSE TEMPORARY OPERATING AUTHORITY FOR AN INITIAL PERIOD NOT TO EXCEED 60 DAYS IF:
(A) THE APPLICANT HAS SUBMITTED A COMPLETE GAMBLING OPERATOR'S LICENSE APPLICATION AS REQUIRED BY THE DEPARTMENT;
(B) THE APPLICANT HAS RECEIVED TEMPORARY OPERATING AUTHORITY FROM THE DEPARTMENT OF REVENUE FOR THE APPLICANT'S ALCOHOLIC BEVERAGE ESTABLISHMENT; AND
(C) THE APPLICATION, ACCOMPANYING PERSONAL HISTORIES, AND INITIAL DEPARTMENT INVESTIGATIONS DO NOT REVEAL ANY CONVICTIONS OR OUTSTANDING CHARGES FOR FELONIES OR CRIMES INVOLVING THEFT OR FALSE SWEARING; AND
(D) THE DEPARTMENT DETERMINES THAT THE APPLICANT HAS FULLY DISCLOSING SOURCES AND THAT THERE ARE NO UNSUITABLE SOURCES OF FINANCING INVOLVED IN THE PROPOSED OPERATION.

(2) THE DEPARTMENT MAY WITHOUT NOTICE REVOKE TEMPORARY OPERATING AUTHORITY FOR ANY APPLICANT IF DURING ITS INVESTIGATION, IT FINDS THAT THE APPLICANT HIRE RESENTED OR OMITTED INFORMATION ON THE APPLICATION OR THAT ANY GROUNDS EXIST THAT MIGHT RESULT IN THE ULTIMATE DENIAL OF THE OPERATOR'S LICENSE.

3) AN APPLICANT IS NOT ENTITLED TO NOTICE OR A CONTESTED CASE HEARING WITH RESPECT TO A DECISION BY THE DEPARTMENT TO DENY OR REVOKE TEMPORARY AUTHORITY.

(4) A GRANT OF TEMPORARY OPERATING AUTHORITY AUTOMATICALLY EXPIRES AFTER 60 DAYS. IF AT THAT TIME THE DEPARTMENT HAS NOT APPROVED OR DENIED THE APPLICATION FOR A GAMING OPERATOR'S LICENSE, THE DEPARTMENT MAY EXTEND THE TEMPORARY OPERATING AUTHORITY FOR 30 DAYS AT A TIME UNTIL THE APPLICATION I ACCEPTED OR DENIED.

SECTION 4. SECTION 23-5-177, MCA, IS AMENDED TO READ:

"23-5-177. Operator of gambling establishment -- license -- fee. (1) It is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise for which a permit must be obtained from the department.

(2) To obtain an operator's license, a person shall submit to the department:

(a) a completed operator's license application on a form prescribed and furnished by the department;

(b) any other relevant information requested by the department; and

(c) a license application processing fee, as required in subsection (9).

(3) The department shall review the application form and other information for completeness and shall notify the applicant in writing within 10 working days of receipt of the application of any deficiencies in the application. An application is considered complete if the applicant is not notified of any deficiencies pursuant to this subsection.

(4) Before issuing an operator's license, the department shall approve, in accordance with 23-5-117, the premises in which the gambling activity is to be conducted.

(5) Except as provided in 23-5-117, regardless of the number of on-premises alcoholic beverage licenses issued for a premises, the department may issue only one operator's license for the premises,

(6) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table for which a permit has been issued to the operator by the department for play upon the premises, including the type of game and permit number for each game; and

(d) any other relevant information determined necessary by the department.

(7) The operator's license must be issued annually along with all other permits for gambling devices or games issued to the operator.

(8) The operator's license must be updated each time a video gambling machine, bingo, keno, or card game table permit is newly issued or the machine or game is removed from the premises.

(9) The department shall charge an applicant who has submitted an operator's license application on or after July 11 1991, a one-time license application processing fee to cover the actual cost incurred by the department in determining whether the applicant qualifies for licensure under 23-5-176. After making its determination, the department shall refund any overpayment or charge and collect amounts sufficient to reimburse the department for any underpayment of actual costs.

(10) The operator's license must be prominently displayed upon the premises for which it is issued.

NEW SECTION. Section 5. Codification instruction. [SECTIONS I AND 3] ARE intended to be codified as an integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, apply to [SECTIONS 1 AND 3].

NEW SECTION. Section 6. Effective date. [This act) is effective on passage and approval.

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